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RELIGIOUS AND SECULAR LEADERSHIP

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RELIGIOUS AND SECULAR LEADERSHIP

PART I

BY

SOLOMON ZEITLIN

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PREFACE

The present volume Religious and Secular Leadership consists of three articles which I published in the *Jewish Quarterly Review*, "Rashi and the Rabbinate," "The Opposition to the Spiritual Leaders Appointed by the Government," and "Saadia Gaon — Champion for Jewish Unity Under Religious Leadership." To this I have added a new chapter, "The Struggle Between Babylonia and Palestine for Hegemony."

Due to the war and in the interest of conservation in accordance with the policy of the government I did not rewrite these articles previously published in the *Quarterly*. Thus, the reader will find a certain amount of repetition which I hope he will pardon.

In this volume I am dealing with the conflict of religious and secular leadership from the time of the Second Commonwealth to the period of Maimonides. In the second volume I shall continue the discussion of the struggle between these two forces down to the Twentieth century. However, in western Europe I shall go only to the French Revolution.

This volume I reverently dedicate to the memory of my father who though a lay scholar in rabbinics possessed a deeply religious spirit.

INTRODUCTION

The conflict between religious and secular forces for leadership is a struggle as old as the history of the Jewish people. Already when the Jews first sought to have a king as their leader to fight their perpetual enemy, the Philistines, the prophet Samuel protested their demand. He believed that the Jews should by guided by their religious leaders, the prophets, and not by secular kings.

The conflict between these two forces during the Kingdom is evidenced by the clash between the priests and the king. So bitter did this struggle become that a priest named Zechariah was killed in the Temple yard by the instigation of the king. Later in the time of the Restoration one group of Jews wanted the new community to be guided by Zerubbabel, grandson of the king Jehoiachin; while another group demanded that the new community be ruled by Joshua, grandson of the high priest, who was killed by the Babylonians.

During the period of the Second Commonwealth there were occasional clashes between the scholars — the Sanhedrin and the kings. In the later period of the Second Commonwealth antagonism existed between the high priest and the Sanhedrin. [At this time the high Priesthood had become a temporal power]. After the destruction of the Temple the head of the Sanhedrin, the *Nasi*-Patriarch, was the sole representative of the Jews. He claimed his authority as a descendant of the Davidic family and also because he derived his tradition from Moses. Thus, in his one person were vested these conflicting authorities.

In Babylonia on the other hand the Civil authority was vested in the Exiliarch who was a descendant from the Davidic family. The spiritual leadership rested in the hands of the rabbis. Between these two forces in Babylonia there was a steady conflict.

In greater or lesser degree this conflict for leadership has continued throughout Jewish history down to our own times, though we may not be aware of it since we are in the midst of contemporary history. It is hard to see a forest because of the trees.

With the growth of nationalism in Jewish life during the last century, a new field for the struggle of leadership in Jewish life has arisen. It is noteworthy to record that the battle cry of the Zionist was *Kibshu et ha-Kehilot* — "take possession of the communities." This became the slogan for the leadership in the early period of political Zionism. The rabbis in Russia, however, strove with all their might to keep the Zionists out of important positions in the community.

The conflict between secular and religious forces is not especially Jewish. It is found in Christendom in the struggle between the church and the state. However, there is a difference in the substance of the conflict between the Christians and the Jews. Christianity conquered Europe both by the sword and by the spirit. And in the process it had to adopt many of the customs of the pagans to effect the domination. But the Jews never converted any peoples either by the sword or by the spirit. The Jews had no missionaries. (The Chazars adopted Judaism but most likely only the nobility, the members of the court were converted to Judaism.)

The Jews came to Europe in various ways. Many were mercenaries in the armies of the Roman legions and later were freed and established colonies of their own in Europe.

Many were taken captive and sold in different markets as slaves. But some of them were later emancipated and remained in Europe. However, the bulk of the Jewish settlers consisted of the free merchants who travelled from the Mediterranean Sea to Provence and later went as far as the Seine, the Marne and beyond the Rhine. Some of the merchants travelled as far as the Black Sea whose shores are known now as the Crimea and the Caucasus. The Jewish settlers in Europe came mostly from Palestine. On establishing communities of their own they followed the communal methods which their forefathers had established in Palestine. In the early days their spiritual guidance came from Palestine but after the country had been conquered by the Arabs, they were separated from their Mother-land Palestine. Throughout the entire Middle Ages, however, the Jews of Europe still continued some form of community life as had been in vogue in Palestine.

Babylonia, as we shall demonstrate, was entirely independent of Palestine. For centuries, Jewish life was guided and controlled by an Exiliarch — a civil leader. Similar communal leadership was established later in Spain. It is true that the early Jewish settlers in Spain were Palestinians. They came to Spain with the Roman legions at a very early time. In the beginning of the 5th Century the Visigoths conquered Spain and the Jews began to suffer. At the time of King Egica very few Jews remained in Spain. Most of them either were killed or forced to accept Christianity. In the year 711 the Berbers crossed the Strait of Gibraltar and conquered Spain. Many Jews who lived among the Arabs and Berbers in Babylonia and in Africa, migrated with them to Spain. Hence, the bulk of the Jewish population of Spain now being of Babylonian origin fashioned their communal life as it was in vogue in Babylonia. The leaders of the community were mostly lay people. In many

provinces of Spain the Crown appointed a Chief Rabbi who supervised Jewish spiritual and social life.

The Jews who migrated to Poland and Russia came mostly from the west, from Germany and from the south-east shores of the Black Sea. The Jews of Poland and Russia were thence of Palestinian descent. The communities were molded according to the French and German types. Each community was independent. Contrary to the Spanish Jewry, the Jews of France, Germany and later Poland and Russia were opposed to a Chief Rabbi and to any Rabbi appointed by the government. In the later period each Synagogue constituted a spiritual community where a Rabbi was elected to supervise the needs of the members of his particular Synagogue. He had the right only over those who elected him. Thus, we find two or more Rabbis in a city.

Throughout the Middle Ages, from the time of Rashi when the Rabbinate came into existence, a struggle between the religious and secular forces for leadership never ceased. The struggle between these two opinions has always been intense. Even for generations after Rashi, secular forces sought to establish their leadership despite the supreme influence of the Rabbis.

Besides the struggle between the religious and secular forces for leadership there was another source of strife between two sections of Jews which I believe has had no parallel in the history of other peoples. I refer to the struggle between the Jewish center of Babylonia and the Holy Land-Palestine for hegemony.

As long as the Temple stood, the head of the Sanhedrin, the *Nasi* Patriarch, who claimed to be of the Davidic family exercised the full authority over the entire Jewish people in Palestine and in Diaspora. He regulated their spiritual life throughout the world. With the destruction of the Temple, however, the Jews of Babylonia tried to

sever themselves from the hegemony of Palestine and they aspired to establish their own independent spiritual life. But they did not succeed. In the 3rd century when the Jewish communities in Babylonia became stronger an attempt was again made to make the Babylonia Jews independent from the Palestinian authorities. The Palestinian rabbis had to compromise with them by granting them some authority. The Exiliarch became also a spiritual power in Babylonia. He had the right to grant authorization and to appoint judges in Babylonia without the consent of the Patriarch in Palestine. One Amora even went so far as to put a ban on those who wanted to leave Babylonia to study in Palestinian schools. R. Judah, the founder and the head of the famous Academy of Pumbedita, said that anyone who leaves Babylonia for Palestine transgresses a positive law, quoting the words from Jeremiah as his authority, "They shall be carried to Babylon and there shall they be till the day that I visit them, said the Lord." (Ber. 24b)

When the Patriarch Hillel II relinquished his prerogative in fixing the Jewish calendar the spiritual life of the Jews of Babylonia was no longer dominated by Palestinian authorities. The rabbis of Palestine, however, were superior in authority to the rabbis of Babylonia since they and they alone had *Semikah*. The Geonim then tried to deprive the Palestinian Jews of this right. In the tenth century Ben Meir, a man of great energy and learning, tried to restore to the academies of Palestine the old hegemony over the Jewish people.

Saadia, Rashi and Maimonides are presented here as prototypes of Jewish leadership in the Diaspora. These men entertained different conceptions of Judaism. Saadia and Rashi believed that the leadership of the Jews should be vested in a man of spiritual authority. (They considered

the Jews as a religious community.) Maimonides, on the other hand, was of the opinion that the leadership of the Jews should be vested in the Exiliarch, a secular leader. These men had the greatest influence upon the Jewish people. Rashi was responsible for the institution of the Rabbinate. Saadia was the champion for Jewish unity under religious leadership. Saadia was responsible for the establishment of Babylonian hegemony over Palestine.

Maimonides considered the Jews not merely a religious community but a people. He looked for the establishment of the Jewish people as a nation in Palestine, free from persecution and able to develop their culture the Torah. He cherished the idea that, as a result of the wars between the Crescent and the Cross, the Jews would return to *Erez Israel* and for this purpose he wrote the *Mishne Torah* as a Constitution for the future Jewish State. We may even say that Maimonides anticipated the entire national and cultural movement which has found voice in modern Jewish history in Herzel and Ahad-Haam. Indeed many of the Orthodox rabbis in more recent times sought justification for joining the Zionist movement in Maimonides' statement in the *Mishne Torah* that a Sanhedrin would be established in Palestine before the arrival of Messiah. They also sought to find support in his writings for *the establishment of a Jewish State through the natural course of historical development rather than through supernatural means.*

These two struggles among the Jewish people, between the religious and secular forces for leadership, and between Babylonian and Palestinian authorities for hegemony, had great influence in shaping and molding Jewish history of the last two thousand years. To understand the history of the Jews since the destruction of the Temple and the up building of the Jewish communities in western and eastern Europe, a full knowledge of this struggle is indispensible.

RELIGIOUS AND SECULAR LEADERSHIP

RELIGIOUS AND SECULAR LEADERSHIP

I

The Second Commonwealth

When King Cyrus of Persia issued his decree in the year 538 B. C. E. permitting the Jews to return to their homeland, thousands of Jews left Babylonia to return to Judea.[1]

Two leaders directed the life of the early period of the new settlement: Zerubbabel, the grandson of Jehoiachin, the King of Judea; and Joshua, the grandson of Seraiah, the High Priest who was killed by the Babylonians at the time of the destruction of the Temple.[1a]

The Jews were divided into two factions. Those who desired to organize the new community under the leadership of a civil authority wanted Zerubbabel for their leader, as he was a scion of the royal family, a descendant of King

[1] The book of Ezra tells dramatically how King Cyrus issued his proclamation to the Jews, bringing their exile to an end.

Thus saith Cyrus king of Persia: All the kingdoms of the earth hath the Lord, the God of heaven, given me; and He hath charged me to build Him a house in Jerusalem, which is in Judah. Whosoever there is among you of all His people — his God be with him — let him go up to Jerusalem, which is in Judah, and build the house of the Lord, the God of Israel, He is the God who is in Jerusalem.

[1a] Comp. Hag. 1.14; 2.4. ועתה חזק זרבבל . . . וחזק יהושע.

David. Those who were of the opinion that the new community should be organized on a religious basis maintained that Joshua, who came of a priestly family, should assume leadership. The group which supported Joshua triumphed; Zerubbabel disappeared as a political factor from Judea, and Joshua became not only the High Priest in the rebuilt Temple but the sole leader in the new community.[2]

One of the chief reasons for the victory of the religious party was the feeling that if the new Jewish community should be established under Zerubbabel, of the Davidic family, the Persian government would suspect the Jews of planning to set up an independent political state and would lay obstacles in the way of the development of the new community.[3]

It is also possible that many Jews were of the opinion that the calamities following the destruction of the Temple were due entirely to the policies of their kings; therefore they did not want any descendant of this royal family as leader.[4] Thus the new Jewish community, after the return from Babylonia, was established under the authority of the priests. In the year 458 B. C. E. the king, Artaxerxes, granted permission to Ezra, a descendant of Zadok, the first High Priest in the Temple built by Solomon, to assume the authority over the Jews there. The King vested in Ezra the power to appoint Judges, who were to

[2] Comp. Zech. 6.12–13. ... ועשית עטרות ושמת בראש יהושע בן יהוצדק הכהן הגדול ... והוא יבנה ... .

[3] Ezra 4.6–22. A letter was sent by the enemies of the Jews to the King of Persia informing him that the Jews were contemplating the establishment of an independent state. מנדה בלא והלך לא ינתנון ... חלק בעבר נהרא לא איתי לך ... על מלכין מתנשאה ... ומלכין תקיפין הוו על ירושלם ... ומדה בלו והלך מתיהב להון.

[4] During the period of the First Temple there was friction between the Priests and Prophets and the kings.

instruct the people and give them the right to punish by death, by confiscation of goods or by imprisonment those who did not follow the laws of God and of the King.[5] This authority was conferred by the subsequent kings of Persia upon the High Priests. Thus, the new Jewish settlement was established as a theocracy, since the jurisdiction was vested wholly in the High Priests, who were the sole authorties over the Jewish people.

The first reaction against the sole authority of the High Priests came after the successful revolt of the Hasmoneans against the Syrians. The Hasmoneans revolted not only against the Syrians but also against the High Priest Menelaus, who obtained the high priesthood from the Syrian king, Antiochus.[6] By the success of the Hasmoneans over the Syrians a Jewish State was established. Simon, the son of Mattathias the priest, the brother of Judas Maccabeus, was elected High Priest and Ethnarch. By the election of Simon to high priesthood and to the leadership of the people, a radical step was taken in Jewish life. The high priesthood had been hereditary and confined to the family of Zadok for many centuries, throughout the period of the First Temple and into the period of the Second Temple, up to the time of the Hasmonean revolt. Simon, however, was not of the family of Zadok, and thus the high priesthood and the leadership of the Jews were given by the Great Synagogue to someone outside of the hereditary line. The high priesthood was given to Simon until a "true Prophet should appear in Israel."[7]

[5] Ezra 7.21–26. ואנת עזרא כחכמת אלהך די בידך מני שפטין ודינין די להון דאנין לכל עמא . . . וכל די לא להוא עבד דתא די אלהך ודתא די מלכא . . . הן למות הן לשרשו הן לענש נכסין ולאסורין.

[6] S. Zeitlin, *History of the Second Jewish Commonwealth*, pp. 18–26.

[7] I Macc. 14.41–47.

The successful Hasmonean war, which brought political independence to the Jews, wrought a profound effect upon the entire life of the Jews, both in its social and religious phases, since the victory over the Syrians was largely due to the support of the masses who constituted the rank and file of the Hasmonean forces. It was through this aid that the Hasmoneans won their victory over the Syrians and established an independent state. Therefore the masses could not be ignored in the management of the new state.[8]

A graphic picture of Jewish life of the pre-Hasmonean period is given by Ben Sira. He tells us that during his time the masses — artisans, farmers, laborers — without whom a city could not exist, nevertheless were excluded from the assemblies. "On the seat of the judges they do not sit, and law and judgment they understand not."[9] He also tells us that instruction in Jewish law was confined to the priests.[10] The reason for this was that the Jewish state had been a theocracy. Entire authority over the Jews in religious and political matters had been invested in the Pontiff, the High Priest, who had sole power to appoint judges and instructors to regulate Jewish life. The High Priests of the pre-Hasmonean period were Sadducees. The common people had not participated in affairs of state. Now, after the establishment of a Commonwealth under the Hasmoneans, the rights of the rulers were curtailed.[11] Although the kings of the Hasmonean dynasty, by virtue of being a priestly family, were High Priests, they did not, however, guide the religious life of the people. A Sanhedrin was instituted in place of the aristocratic Gerousia.[12] While it is true that during

[8] S. Zeitlin, ibid., pp. 39–40.
[9] Ben Sira 38.31–34.
[10] Ibid. 45.17; comp. also Deut. 33.10.
[11] See S. Zeitlin, ibid., pp. 39–40.
[12] Idem. ibid.

the early period of the Sanhedrin the leaders were still priests,[13] in later days the leadership of the Sanhedrin was taken over by non-priests, Israelites.[14] Thus, for the first time, in the period of the Second Temple, the priests were stripped of religious authority, which was taken over by scholars who were not necessarily of priestly families.

By the successful revolt of Herod, when the last king of the Hasmoneans was killed, the government of Judea, with the assistance of the Romans, was usurped by him. Herod was not of priestly family and consequently could not assume the function of High Priest. Therefore a member of the priestly family was appointed High Priest. Thus, the three authorities which in the time of the Restoration were vested in one person — the High Priest — were now divided among the King, the High Priest and the Sanhedrin. So, in the Herodean period the political power over the Jewish State was held by the King; the authority over the Temple was in the hands of the High Priest (although he was appointed by the King; nevertheless, while he was in office the High Priest was the sole authority in the Temple); but the religious life of the Jews was controlled by the Sanhedrin. The Herodean family had power only over Judea but not over the millions of Jews who lived in the Diaspora, and particularly not over the Jews of Babylonia, which did not belong to the Roman Empire. The authority of the High Priest did not extend beyond the limits of the Temple. The Sanhedrin, however, had religious authority not only over Judea but over the entire Jewry all over the world.[15]

[13] Jose ben Joezer was a Priest; see Hag. 2.3, יוסי בן יעזר היה חסיד שבכהונה.

[14] Shemaiah and Abtalyon were no longer priests. Comp. Yoma 71b, ייתון בני עממין לשלם . . . ולא ייתי בר אהרון. See S. Zeitlin, *JQR*, VII (1916–17), 512, n. 21.

[15] See idem, *The Jews: Race, Nation, or Religion?* p. 38.

At the time of the Procurators, Judea lost its independence and became a province of Rome. The High Priest was either appointed by the Procurator or had to obtain his good will in order to become High Priest. The religious life of the Jews continued to be in the hands of the Sanhedrin. The office of *Nasi* — president of this body — now became hereditary in the family of Hillel. The family according to tradition descended from the royal family of David.[16] This tradition in later days became established as an historical fact.

The High Priest, by virtue of being the head of the Temple, which was the center of the entire Jewish life, exercised great influence over the people. He represented them before the Roman government. He was responsible for maintaining the peace of Judea. Hence he was actually the leader of the Jewish people.[17]

There always had been dissension between the scholars and the high priests. The high priests usually were not liked by the scholars and many high priests were often despised by the common people.[18]

During the revolt of the year 65 C. E., after the early successes won by the Jews against the Romans, the High Priest Ananus was the head of the provisional government after the defeat of the Roman General, Cestius. Second in the leadership of the provisional government was Simon, a son of Gamaliel,[19] the president of the Sanhedrin. Thus the last government which the Jews established was headed by both the priesthood and the Sanhedrin.

[16] See Yer. Tan. 68a, אמר ר' לוי מגילת יוחסין מצאו בירושלים וכתוב בה הלל מן דדוד. Comp. also Sanh. 5, לא יסור . . . ומחוקק מבין רגליו אלו בני בניו ועמוסי יריכי נחשון. Also Ket. 62b and Sanh. 12, של הלל שמלמדין תורה. See Israel Levi, *REJ*, 1895.

[17] Comp. Josephus, *B. J.* 2.

[18] Tos. Men. 13.21, אוי לי מבית ביתוס . . . אוי לי מבית ישמעאל בן פיאבי שהם כהנים גדולים ובניהם גזברין וחתניהן אמרכלין.

[19] *Vita*, 190; *B. J.*, 2.563; 4.159.

II

After the Destruction of the Temple

Palestine

After the destruction of the Second Temple in the year 70 C. E., the Jews were not only deprived of their independence as a state, but lost their Temple. With the burning of the Temple the position of the High Priest was gone. The only remaining authority in the religious life of the Jews was the Sanhedrin. This body remained the sole representative of the Jews of Judea before the Roman authorities. The president of the Sanhedrin, as well as its members, had to travel to Rome either to plead for the Jewish cause or for other political reasons.[20]

It is interesting to note that the first Sanhedrin which was established at Jabneh, after the destruction of the Second Temple, had a priest as its president,[21] Rabban Johanan ben Zakkai. Various reasons are suggested as to why Rabban Gamaliel, the son of Simon, who was the *Nasi* of the last Sanhedrin before the destruction of the Temple, was not elected *Nasi*. Some believe that Gamaliel was too young at the time to be given such an important office. This view is based on a passage in the Talmud wherein it is stated that among the favors asked by Rabban Johanan ben Zakkai of the Emperor Vespasian was

[20] See Mak. 24, וכבר היה ר' גמליאל ורבי אלעזר בן עזריה ור' יהושע ור' עקיבא מהלכין בדרך ושמעו קול המונה של רומי. Yer. Sanh. 25d, דלמא ר' אליעזר ורבי יהושע ורבן גמליאל סלקון לרומי. Mid. Rab. Deut. 2, מעשה שהיו רבותינו ברומי ר' אליעזר ור' יהושע ורבן גמליאל, וגזרו סנקליטין של מלך לומר מכאן ועד שלשים יום לא יהיה בכל העולם יהודי.

[21] Comp. Tosefta, Para, 4.7, שאלו תלמידיו את רבן יוחנן בן זכאי פרה במה נעשית אמר להם בבגדי זהב אמרו למדתנו בבגדי לבן אמר להם יפה אמרתם מעשה שעשו ידי . . . ויש אומרים הלל הזקן שאלו לא שלא היה יודע. Comp. Sifre, ed. Friedmann, 123, שאלו תלמידיו את רבן יוחנן בן זכאי באיזו כלים פרה נעשית . . . ויש אומרים הלל הזקן היה אלא שלא יכול לומר מה ששרתו ידי.

one that he should not harm Gamaliel.[22] This episode must be classed as legendary.[23] In all probability the reason why Gamaliel was not elected was that he was *persona non grata* to the Roman authorities because his father had participated in the provisional government which was established during the beginning of the revolt against Rome. However, I believe that the election of Rabban Johanan ben Zakkai was influenced by the fact that he was a priest. Many of the old ruling authorities desired that the head of this body should be not only a scholar but also a priest, since the Sanhedrin, which was the only institution left after the destruction of the Temple, controlled the religious life of the Jews and represented them before the Roman government.[24] After the death of Rabban Johanan ben Zakkai, however, Rabban Gamaliel, who claimed descendancy from the family of David, was elected *Nasi*.

[22] Giṭ. 56b, בעי מינאי מידי דאתן לך אמר ליה תן לי יבנה וחכמיה ושושילתא דרבן גמליאל.

[23] According to the Talmud Rabban Johanan ben Zakkai prophesied that Vespasian would be Emperor; according to Josephus he foretold that Vespasian would be crowned as Emperor, *B. J.*, 3, 399–407. Comp. also Suetonius, *Vesp.* 4; Tacitus, *Hist.* 5.

[24] Tos. Ber. 2.6. רבן גמליאל ובית דינו ביבנה היו עסוקין בצרכי צבור See also n. 20 above. Comp. also Ber. 27b דאי איתא ליה לפלוחי לבי קיסר אף הוא אזיל ופלח.

Josephus in *Contra Apionem* II, 22, which was written after the destruction of the Temple, still pictured the Jewish state as controlled by the Priests:

"And where shall we find a better or more righteous constitution than ours? while this makes us esteem God to be the governor of the universe, and permits the priests in general to be the administrators of the principal affairs, and withal intrusts the government over the other priests to the chief high-priest himself . . . These men had the main care of the law and of the other parts of the people's conduct committed to them: for they were the priests who were ordained to be the inspectors of all, and the judges in doubtful cases, and the punishers of those that were condemned to suffer punishment."

From time to time there were conflicts between the members of the Sanhedrin and Gamaliel as to who had greater authority — he, as *Nasi*, or the members of this body. Gamaliel had once been removed from the presidency. According to the Talmud the reason for his removal was because of difference of opinion on the Halakah — the members of the Sanhedrîn thought he was arrogating too much power to himself in deciding the law.[25] A new president was elected, Eleazar the son of Azariah, who was of priestly family.

Was it only a coincidence that the new president, Eleazar, was of priestly family, or was it that the group which had always wanted the head of the Sanhedrin to be a priest had gained power enough to elect a priest as president? The Talmud merely says that they appointed as *Nasi* Eleazar the son of Azariah, a descendant of Ezra,[26] the priest who at the time of the Restoration was the head of the Jewish community.

After the destruction of the Temple, the priesthood as a potential power was not yet destroyed, since the Jews of Judea laid hope for a new revolt against the Romans and looked forward to the rebuilding of the Temple.[27] The immediate cause for the removal of Gamaliel may have been due to differences of opinion between him and his colleagues. However, for the appointment of Eleazar we must look deeper. It seems that the priesthood was

[25] Ber. 27, עד כמה נצעריה וניזל בראש השנה אשתקד צעריה . . . תא ונעבריה. See R. H. 25a, Yer. Ber. 7d אמרו לו על מי לא עברה דעתך תמיד הלכו ומינו את ר' אלעזר בן עזריה בישיבה.

[26] Ber. 27, והוא עשירי לעזרא.

[27] Although the Temple was destroyed the Jews continued to live in Jerusalem. Many Jews even continued to sacrifice the paschal lamb. See at length S. Zeitlin, *Horeb*, 1938, טומאת נכרים בזמן הבית השני.

still struggling for leadership. The influence of the priesthood as a religious and political factor in Jewish history disappeared only after the collapse or revolt of Bar Kokba, when the Jews gave up hope for the immediate rebuilding of the Temple.

After a short period of time, however, Rabban Gamaliel was reinstated as *Nasi* and Eleazar ben Azariah was appointed *Ab Bet Din*.[28] Gamaliel in his epistles to the Jews of the Diaspora addressed himself both in his own name and in the name of his colleagues.[29] This would indicate that he was not the sole authority. According to the Talmud, the phrase "in the name of his colleagues" was used by Gamaliel after his re-instatement.[30] Another source tells us that on one occasion when Gamaliel was delayed in his return from visiting with the Governor of Syria, the members of the Sanhedrin, finding it necessary to intercalate another month into the year, did so on the condition that Rabban Gamaliel would concur in their action.[31] From this we may conclude that the entire authority was vested in the *Nasi*. However, this event may have occurred before Gamaliel was removed from his office as *Nasi*.

[28] See Yer. Ber. 7d מינו אותו אב בית דין. The expression מינו אותו can mean only his appointment to the position of *Ab Bet Din*.

[29] Sanh. 11b. . . . מעשה ברבן גמליאל שהיה יושב על גב מעלה בהר הבית . . . ושלש אגרות . . . וכתוב לאחנא בני גלווחא . . . ושפרא מילתא באנפיי ובאנפיי חבירייי ואוספת על שתא דא יומין תלתין.

[30] Sanh. ibid. דילמא במר דעברוה. The Gamaliel here referred to is the second, who lived after the destruction of the Temple. This can be deduced from the contents, where it is said: דילמא בתר דעברוה. Further proof is offered by the Palestinian Talmud where it is stated that Rabbi Joshua participated with Rabban Gamaliel, which show that it could only be the second Gamaliel, שהיה ר' יהושע בן חנניה תמן, Ma'as. Sh. 56c, ed. Venice.

[31] 'Eduy. 7.7, מעשה ברבן גמליאל שהלך ליטול רשות מטפסר בסוריא ושהא לבא ועברו את השנה על תנאי לכשירצה רבן גמליאל. See also Sanh. 11a.

The *Nasi* had the title of Rabban or master. The members of the Sanhedrin were called *zekenim* and each one had the title of Rabbi, my master. This latter title was given only to those scholars who had authorizations from the Sanhedrin. Those who did not receive the authorization, although they may have been great scholars, were not called Rabbi, but were addressed by their proper names.[32] They could not participate in the session of the Sanhedrin when the question of the intercalation of the year was under discussion.[32a]

In the year 140 C. E., after the Jews had recovered from the catastrophe which had befallen them in the Hadrianic period, the Sanhedrin assembled again in the city of Usha. The *Nasi* of the Sanhedrin was Simon the son of Gamaliel. He, like his father, had difficulties with his colleagues.[33] It seems, however, that his differences were rather personal. In his time the power of the *Nasi* became more extensive. In his epistles to the Jews of the Diaspora he does not use the phrase, as his father did, "in my name and in the name of my colleagues," but solely "in my name."[34] This shows that his authority was formally established.

After the death of Simon his son Judah became *Nasi*. Judah was the first to be called by the name *Nasi*, because he was recognized by the Roman authorities as the patriarch of the Jews. Therefore he bore the title *Nasi*, patriarch,

[32] See S. Zeitlin, *JQR*, XXVII, 393.

[32a] Only זקנים could participate in the session of the Sanhedrin when intercalation of the year was under discussion. Comp. Yer. Sanh. 18c. חברים מהו ליכנס לעיבור השנה נישמעניה מן הדא מעשה ברבן גמליאל שאמר יקרוני שבעה זקנים לעלייה ונכנסו שמונה אמר מי הוא שנכנס שלא ברשות ואפילו כן לא עיברוה. Comp. S. Zeitlin, *Horeb*, 1939, הפרושים.

[33] Hor. 13b.

[34] Sanh. 11, Tosefta ibid. מהודעין ... ושפרת מילתא באנפיי ואוסיפת על שתא דא תלתין יומי.

president. His predecessors had been president only of the Sanhedrin and had been appointed by his colleagues, the members of the Sanhedrin. In some cases prior to Judah the members had the power to remove the *Nasi*, as in the case of Gamaliel II, his grandfather, whereas Judah had his authority from the government, and his colleagues could not remove him, while he, on the other hand, had the sole authority to appoint members to the Sanhedrin.[35] His descendants continued to have sole power to appoint scholars to the Sanhedrin.[35a]

Beginning with Judah, the Patriarch, who became known in talmudic literature by the name Rabbi, the term *Semikah* — ordination — disappears from usage in the Palestinian Talmud. We find the term מנוי "appointment" instead of סמיכה "authorization." This is due to the fact that up to the time of Judah the members of the Sanhedrin had authorized their disciples to decide the law.[36] However, beginning with the time of Judah only the Patriarch had the authority to do so and he appointed judges.[37] Therefore the term מנוי replaces the term *Semikah*, authorization. The patriarchs appointed judges for the Jews not only of Palestine but for Jews throughout the Roman Empire.[38] These appointments could be made for a

[35] Yer. Sanh. 19a, אמרו בית דין שמינה שלא לדעת הנשיא אין מינויו מינוי, ונשיא שמינה שלא לדעת בית דין מינויו מינוי, חזרו והתקינו שלא יהו בית דין ממנין אלא מדעת הנשיא, ושלא הנשיא ממנה אלא מדעת ב"ד.

[35a] Comp. Yoma 78a, שאלו את ר' אלעזר זקן ויושב בישיבה צריך ליטול רשות . . . דבר זה הניחו להם לבי נשיאה כדי להתגדר בו צריך ליטול רשות.

[36] Ibid. תמן קריי למנוייה סמיכתא. אמר רבי בא בראשונה כל אחד ואחד ממנה את תלמידיו כגון רבן יוחנן בן זכאי מינה את רבי ליעזר ורבי יהושע ורבי יהושע את רבי עקיבא. Rab Ba used the term מנוי which was prevalent only in his own time.

[37] Yer. Ned. 42b. All authorization given by scholars was with the consent of the Patriarch. See notes 35 and 35a, Sanh. 14, Yer. ibid. It was also called נטילת רשות לשקול רשותא. See Sanh. 5,

[38] Yer. Bik. 65d, ר' יצחק בר נחמן הוה בעזה ומנוניה, ר' זמינא הוה בצור ומנוניה ע"מ לחזור, יהודה בן טיטס הוה ברומי ומנוניה. Comp. also *Leges Novellae ad Theodosianum*, XVI, ed. Th. Mommsen, 1905, Lib. XVI.

limited time, as in the case of Hiyya, the son of Abba, to whom the Patriarch gave authorization until his return to Palestine.[39]

It was charged that some judges were appointed not because of their great scholarship but because they paid the Patriarch for their office.[40] The Patriarch sometimes gave to his disciples permission to decide the law connected with ritual. This was called רשות.[41] The judges who were appointed by the Patriarch could in turn delegate their power to any one they thought fit. The Patriarch or the men who were delegated by him had the power to nominate and install the secular leaders in the Jewish community as well. These were known as *Parnasim*.[42] Usually scholars were chosen for this office.[43]

As already stated, the Patriarchs were representatives of the Jewish people before the Roman authorities. In the epistle of Emperor Julian the Apostate, Hillel II is called "Patriarch," which indicates that the *Nasi* was considered in the eyes of the Emperor as the head of the Jewish community.[44] In many cases the patriarchs, representing the Jews before the Roman authorities, suffered greatly from the whims of the Roman emperors.[45]

The office of Patriarch, as we know, was hereditary. It continued from the time of Hillel (approximately in the

[39] Yer. Ned. 42b; see also ibid. Bik. 65d, חיא בר אבא אתא לגביה, ר' לעזר אמר ליה פייס לר' יודן נשייא . . . הרי ששלחני לכם אדם גדול . . . עד שיגע אצלנו. See also Sanh. 5b.

[40] Ibid. ר' זעירא וחד מן רבנן הוון יתיבין עבר חד מן אילין דמתמני בכסף. See Sanh. 7b, דבי נשיאה אוקמי דיינא דלא הוה נמיר.

[41] Sanh. 5a, לשקול רשותא.

[42] Comp Yer. Yeb. 13a, בני סימונייא אתין לגבי רבי אמרין ליה בעא תתן לן חד בר נש . . . ר' יוסי יאל לכפרה בעא מוקמה לן פרנסין; also ibid. Pea 21. ולא קבלין עליהון ר' חני כד הוה מקים פרנסין.

[43] Giṭ. 60a, ת"ח הממונים פרנסים.

[44] *The Works of the Emperor Julian* (*The Loeb Classical Library*) III 178, *τὸν ἀδελφὸν "Ιουλον, τὸν αἰδεσιμώτατον πατριάρχην.*

[45] Yer. Ter. 46b; Midr. Rab. Gen. 78.

year 30 B. C. E.) until Gamaliel (circa 429 C. E.), and was abolished by the Emperor Theodosius.[46]

The authority of the patriarchs to decide the law and delegate their powers to others was derived from two sources. One was based on the talmudic passage interpreting the phrase of Jacob's blessings to Judah, where we read, "The sceptre shall not depart from Judah, Nor the ruler's staff from between his feet." According to the Talmud this referred to the patriarchs descended from Hillel, who was of the Davidic family.[47] The second source was based on the tractate Abot, which traces the chain of tradition from Moses to Rabbi Judah, the Patriarch, and his son. The Mishna Abot reads as follows: "Moses received the Law from God and transmitted it to Joshua who gave it to the Elders, who in turn transmitted it to the prophets. They gave the Law to the men of the Great Synagogue, who handed it to Simon the Pious, who transmitted it to Antigonus. From him it was received by Jose ben Joezer and Jose ben Johanan, who transmitted it to Joshua ben Perahya and Nittai of Arbella; they in turn transmitted it to Judah ben Tabbai and Simon ben Shetah. They turned over the tradition to Shemaya and Abtalyon, who conveyed it to Shammai and Hillel." From then on it remained in the hands of the dynasty of Hillel, up to the time of Rabbi Judah, the Patriarch, and his son. This passage shows that the authority vested in the Patriarch came from Moses.

Thus, the authority of the Patriarchs of Palestine over the Jews was claimed by them as descendants of the Davidic family, to whom God had promised leadership over the Jews forever and forever, while the spiritual

[46] Theodosius, op. cit., XVI, 8, 29, p. 895.

[47] Sanh. 5a, לא יסור . . . ומחוקק מבין רגליו אלו בני בניו של הלל שמלמדים תורה ברבים. See Hor. 11b.

authority was claimed by them because the tradition came to them from Moses, who received it from God on Mount Sinai.

III

Babylonia

When Cyrus, King of Persia, issued his decree permitting the Jews to return to their homeland, not all of the Jews left Babylonia. The great majority remained in their adopted country. The Jews of Palestine and the Jews of Babylonia were, however, politically united under the Persian flag. When the Persian Empire was conquered by Alexander, the Jews continued to live under one flag. After the death of Alexander, when his Empire was divided into different parts and Palestine was conquered by the Ptolemies, and Babylonia was under the Seleucidae, for the first time the Jews of Babylonia were separated from the Jews of Palestine. The Jews were in separate king doms hostile to each other.[48]

In the war between Ptolemy III and Seleucus, the High Priest Onias II, who was at that time the head of the Jewish community, allied himself with the Syrian King Seleucus, for he was anxious that the Jews of Palestine and Babylonia should be united in one kingdom, under the flag of the Seleucidae. For Onias knew that if Palestine should be united with Egypt under the flag of the Ptolemies the Temple would lose considerable income, since the Jews of Babylonia would find it difficult to continue their pilgrimage to Jerusalem and to send their gifts and sacrifices to the Temple. He therefore sided with the Syrian king.[49]

[48] See S. Zeitlin, *The History of the Second Jewish Commonwealth* pp. 6–18.

[49] Idem, ibid., pp. 11–12.

After the victory of the Maccabeans over the Syrians, the Jews gained their independence and again established their own state, and thus were once more politically separated from the Babylonian Jews. During the time of the Roman domination of Palestine the Jews lived again in two different empires of opposing interests. They remained so almost up to the time of the Arabian conquest of Palestine.

We do not know who were the Jewish leaders in Babylonia in the Persian period. Tradition tells us that even in the time of the Persian period, and up to the Islamic period, the Jews had leaders of their own who were called Exilarchs, *Resh Galuta.* The ancestry of the Exilarch was traced to the House of David.[50] Even if we should accept this as authentic, the spiritual leadership was not in the hands of the Exilarch. In the Persian period most likely the High Priest interpreted the law for the Jews. In the Hellenistic period the Sanhedrin in Jerusalem did this.[51] We may also surmise that during the Second Commonwealth there were schools of instruction in Babylonia and many Jews went to Jerusalem to advance their studies in the law. It is known that Hillel, one of the outstanding scholars in the Second Commonwealth and the founder of the dynasty of the Patriarchs, was a Babylonian.[52] After

[50] Sanh. 5a, לא יסור שבט מיהודה אלו ראשי גליות.

[51] The Jews in the Diaspora depended for the order of the holydays upon the calendar as fixed by the Sanhedrin in Palestine.

[52] Dr. Kaminka in the *JQR*, XXX, 107, maintains that Hillel was not a Babylonian but an Alexandrian. His hypothesis is based on a misunderstanding of a talmudic text. In the passage in the Talmud which reads כשהיו בני אלכסנדריא מקדשין נשים . . . אמר להם הלל הזקן הביאו לי כתובת אמכם . . .", the phrase בני אלכסנדריא does not mean, as Kaminka translated it, "happened in Alexandria," but rather refers to the people of Alexandria who were in Palestine. (See S. Zeitlin, *The Jews: Race, Nation or Religion?* p. 14, n. 22; comp. also Yer. Meg. 73d, מעשה בר' אלעזר בן צדוק שלקח בית הכנסת של אלכסנדרים ועשה בה כל צרכיו).

As to the talmudic usage "Hillel of Babylonia," Kaminka tries to dispose of this by saying that the Talmud sometimes called Alex-

the destruction of the Temple the Sanhedrin continued to interpret the law and to regulate the spiritual life of the Jews in Babylonia. This is indicated by the Epistles of Gamaliel and Simon to the Jews of Babylonia, in which they proclaim the intercalation of an additional month thus changing the order of the holydays.[53]

At the time of the revolt of Bar Kokba the Jews of Babylonia, who were very numerous and were in better political and economic circumstances, attempted to sever themselves from Palestinian authority; however they did not succeed.[54] The Jews of Babylonia continued to travel to Palestine to study, particularly during the time of Rabbi Judah, the Patriarch, when many young men came to his academy. Some remained there permanently, as for example Rabbi Hiyya; while others, like Abba, who became known in rabbinic literature by the name Rab, returned to Babylonia after acquiring the necessary knowledge and authorization. And so Samuel, who hailed from Babylonia, also went to Palestine. Abba received partial authorization from Rabbi (Judah), while his cousin Rabba received full authorization and Samuel, on the other hand, received no authorization.[55]

When Rab returned to Babylonia he established a higher academy of learning in the city of Sura. At this time there

andrians Babylonians, and refers to Men. 100. However, the passage reads as follows: אמר רבה בר חנה אמר . . . והבבלים אוכלים אותו כשהוא חי ר' יוחנן לא בבליים הם אלא אלכסנדרים הם ומתוך ששונאים את בבליים קורין אותם על שם בבליים, which means that the Palestinians did not like the Babylonians because of their lack of culture and therefore anyone who acted boorishly was called in reproach a Babylonian. Comp. also Rashi, ad. loc.

[53] Ḥul. 48a, מעשה ועלו עליה בני עסיא ג' רגלים ליבנה לרגל שלישי התירוה להם.

[54] Yer. Ned. 40a, חנינה בן אחי ר' יהושע עיבר בחוץ לארץ שלח ליה רבי תלת אגרין . . . גדיים שהנחת נעשו תישים . . . אם אין את מקבל עליך צא לך למדבר . . . האטד ותהא שוהט ונחוניון זורק. Comp. also ibid., Sanh. 19a.

[55] Sanh. 5a.

was an Exilarch in whose hands was concentrated the power of the entire Jewry of the country. This Exilarch supervised the social as well as the spiritual life. The judges who wished to make certain that their decisions would not be reversed in error, on objection raised by a litigant to the decision of the court, were compelled to accept authorization from the Exilarch.[56] This shows that the Exilarch had control over the appointment of judges. One of the well known judges of the time of Exilarch Huna was Karna.[57] The Exilarch also appointed inspectors of markets to supervise weights and measures.[58]

In the course of time, however, the heads of the academies of Sura and Pumbedita gained more power and they contested the authority of the Exilarch. On one occasion Rabba, the son of Rab Huna, defied the Exilarch by saying, "I do not have my authorization from you, but from my father who received his from Rab, while Rab obtained it from Hiyya and Hiyya from Rabbi (Judah)."[59] In this way Rabba sought to trace his authority to Rabbi (Judah) who was a descendant of the Davidic family and whose tradition went back to Moses. By invoking this tradition the scholars of Babylonia declared their superiority to the authority of the Exilarch, and hoped to prove that to them rightfully belonged the leadership of the Jews. In the fourth century C. E. the power of the scholars of Babylonia was supreme over the Exilarch, who was dependent on Rab

[56] Ibid., אמר רב האי מאן דבעי למידן דינא ואי טעה מיבעי למיפטריה לישקל רשותא מבי ריש גלותא.

[57] Ibid. 17b, דיינא גולה קרנא.

[58] B. B. 89, דבי נשיאה [ריש גלותא] אוקמי אגרדמין בין למדות בין לשערים א"ל רב מנייה ריש גלותא אנגרמוס והוה מחי שמואל לקרנא. Comp. Yer. ibid. 15b, על מכילתא ולא על שיעוריא עאל רב קרנא.

[59] Sanh. 5a, רבה בר רב הונא כד הוה מינצי בהדי דבי ריש גלותא אמר לאו מינייכו נקיטנא רשותא, נקיטנא רשותא מאבא מרי ואבא מרי מרב ורב מרבי חייא ורבי חייא מרבי.

Ashi, the head of the academy of Sura.[60] Even in the early days before Ashi, when the Exilarchs governed the Jews, they never had any influence in choosing the head of the academies. We know that in many cases the members of the academies consulted Palestinian scholars in choosing the heads and it seems that they never even sought the advice of the Exilarch as to who should lead the academies.[61]

The heads of the academies in Babylonia were always chosen from among their members, while in Palestine they were appointed by the *Nasi*, the Patriarch. In Babylonia the scholars ordained their disciples; in Palestine, however, the ordination came from the *Nasi* and was by way of appointment. As the Palestinian Talmud says, "There (in Babylonia) they called מנוייה appointment, סמיכותא authorization."[62]

Thus, as we have shown, in Palestine after the destruction of the Temple the entire authority of the Jewish community was vested in the hands of a single person, the *Nasi*, Patriarch, thereby avoiding conflict between the secular and religious authority. In Babylonia, however, these two powers were separate, i. e., the Exilarchs and the scholars (the heads of the academies), thus creating friction as to their supremacy. In the later period of Amoraim the scholars succeeded in wresting authority from the Exilarchs by maintaining that they were the actual successors to Rabbi (Judah the Patriarch), who held civil authority by virtue of his descent from David and religious authority by the unbroken chain of tradition

[60] Giṭ. 59a, שאני הונא בר נתן דמיכף הוה כייף ליה לרב אשי.

[61] Ber. 64a; Hor. 14a.

[62] Yer. Sanh. 19a, תמן קריי למנוייה סמיכותא. See also I. A. Herzog *Sinai*, 1939, הערות היסטוריות בהלכות סנהדרין.

which descended from Moses.[63] The amoraic period ended at the close of the fifth century. This sudden termination may be explained by the social and political condition of the country. Babylonia came under the government which was afflicted with the communistic doctrines of Mazdak. The academies were closed and the Jews were persecuted.

When Babylonia was conquered by the Arabs, however, a new era was inaugurated. The Caliph appointed an Exilarch, whose name was Bustanai, a descendant of the Davidic family.[64] The higher academies of Sura and Pumbedita were reopened. The sole authority to govern the Jewish community rested in the hands of the Exilarch, who appointed the heads of the academies, Geonim, and he had the power to dismiss them at his whim.[65] On one occasion, when there was a vacancy in the Geonate, the Exilarch ignored a man of great learning, like Rab Acha the author of the *Sheeltoth* (discussions), because he favored another who was not a student at all.[66] Sherira Gaon in his Epistle maintained that the Exilarchs obtained their positions from the Caliphs by bribery.[67]

[63] Only a few names of the Exilarchs are recorded in the Talmud, which indicates that the Amoraim tried to ignore them. All important documents to be considered valid had to be recorded in the courts of the academies. See Giṭ. 36b, לא כתבינן פרוסבול אלא אי בבי דינא דסורא אי בבי דינא דנהרדעא.

[64] On Bustanai, see מעשה בית דוד in סדר הדורות. Comp. also the Epistle of Sherira. ולא מבני בסתנאי אנחנא אלא מקמי הכי עיילי זקננו ביה רבנן.

[65] Ibid. דמעברון [להן] ומהדרין.

[66] Ibid. וכד אדברינהו נשיא עלוהי סלק להתם. Ibn Daud, *Sefer ha-Kabbalah*, אבל לא נסמך רב אחא . . . מפני שנאת ראש גלות. On the geonic period, see L. Ginzberg *Geonica* I; although published more than thirty years ago, it is still one of the best books on the geonic period. Comp. also Mann, משרת ראש הגולה . . . ספר זכרון לכבוד הד"ר שמואל אברהם פוזננסקי, Warsaw, 1927; idem, *The Jews in Egypt and in Palestine under the Fatimid Caliphs*, vol. I.

[67] Epistle, דהוה זבנין לי לריש גלותא בדמים גדולים.

By the eighth century the scholars gained both power and influence. They prevented the appointment of Anan, who was in the line of succession to the Exilarch, because they believed that he entertained heretical doctrines. Instead his brother was appointed.[68] When David, the son of Zakkai, was the Exilarch (circa 926 C. E.), the Gaon of Sura passed away. The head of the Pumbedita academy, a very energetic man, whose name was Kohen-Zadek, was eager to close the school of Sura entirely and have only one academy with himself as leader. The Exilarch feared that if the Gaon of Pumbedita succeeded in his ambition he would constitute a dangerous rival to himself; he therefore wanted the Sura academy to continue so as not to increase the influence, the power, of Kohen-Zadek, the head of the academy of Pumbedita. Hence he decided to invite as head of the Sura academy a man named Saadia, from Egypt.[69]

The choice of Saadia as head of the academy of Sura is to be explained by the fact that the Exilarch felt that Saadia, being a foreigner and owing his position to the Exilarch, would be loyal to him and could be used against Kohen-Zadek. Saadia, however, was a man of strong convictions and soon clashed with the Exilarch. The latter then removed Saadia from the Geonate and appointed someone else in his stead. Saadia Gaon in retaliation removed the Exilarch and appointed another man in his place.[70]

[68] Ibn Daud, op. cit., ובימיו הוה ענן . . . וענן זה מבית דוד היה וחלמיד חכם היה בתחילה והכירו בו שטן פיסול ומפני זה לא נסתך לגאון וגם לא סייעוהו מן השמים להיות ראש גלות.

[69] See H. Malter, *Saadia Gaon, His Life and Works*, Philadelphia, 1921. Comp. also Mann, op. cit.

[70] See Ibn Daud, op. cit.; Malter, op. cit. See also below, Saadia Gaon, ch. VII.

After this controversy between the Geonate of Sura and the Exilarch, the power of the Exilarch diminished.[71] The Gaon gained more power. Up to this time the Exilarch appointed judges and authorized men to instruct and decide all matters concerning ritual law.[72] However, after this controversy, particularly in the time of Hai Gaon, this authorization was given not by the Exilarch but by the Gaon, in the name of the court, בית דין. The letters of authorization used the following language: "We appoint such and such man in such and such place; we give him the authorization to judge and advise on everything connected with the precepts and with the ritual law. If there is anyone who does not accept his decision this man has the full authority to treat him as if he had committed a sin before God."[73]

We are in possession of a report of Rabbi Nathan ha-Babli[74] in which he described the appointment of the Exilarch and of the two heads of the academies of Sura and Pumbedita. He states that the Exilarch was appointed by the community with the consent of the heads of the academies. However, we know that Nathan lived at the time of Saadia Gaon and hence his account contains the events of his own period and those immediately preceding it, when the power of the Exilarch was already on the wane,

[71] See Epistle, בימי דוד בן זכאי הנשיא אישתפלו מן שולטנותא דמלכא ולא אזלו רשואתא דפומבדיתא בתריהן.

[72] Comp. Harkavy, זכרון לראשונים וגם לאחרונים, 1, 4, p. 355. אולם בהלכות פסוקות בהל' חוה"מ בין תשובות רב שר שלום . . . כך פירש מר רב יצחק גאון איגרות שכותב ריש גלותא לשופט ונותן לו רשות לילך וללמד את ישראל איסור והיתר ולהורות להן דברי תורה ושמו בלשון ארמי פתקא דדיאנותא.

[73] Ibid., p. 80. כך ראינו כי המנהג בבבל שבית דין הגדול הן ממנין דיאנין בכל פלך ופלך וכותבין לו לדיאן איגרות רשות וקוראין אותו בלשון ארמית פתקא דדיאנותא, וכן מפרשין דאנחנא מנונה לפלוני בר פלוני דיאנא באתרא פלוני ויהבנא ליה רשותא למידן דיני ולאיתחזאה על כל מילי דמצואתא ודאיסורא והתירא ודחלית שמיא וכל מאן דלא מקביל דינא על נפשיה אית ליה רשותא למעבד ביה מאי דחזי כי היכדין דחייב מן שמיא.

[74] Comp. Malter, op. cit.

while that of the Geonim was in the ascendancy. In the early days of the geonic period the Exilarch had been an autocrat and was appointed by the Caliphs without the consent of the heads of the academies. In the later days of the geonic period the Gaon gained entire power, particularly in the time of Sherira and his son Hai Gaon. Sherira Gaon claimed descent not only from the line of scholars but also from the family of David. His son Hai, the last Gaon of eminence, was assigned to this high position during his father's lifetime. On the Sabbath of his installation suitable selections from the Bible were read by the congregation from the Pentateuch, "The God of the spirits of all flesh,"[75] comparing Hai's succession to his father with that of Joshua to Moses; for the Haftarah they read from I Kings 2, "Now the days of David" and they finished the Haftarah with verse 12 which reads: "And Solomon sat upon the throne of David his father and his kingdom was established firmly." They substituted the name Hai for Solomon, to read "And Hai sat upon the throne of Sherira his father and his kingdom was established firmly."[76]

The reading of the above passages from the Bible during the installation of Hai Gaon indicates that he claimed that his authority came to him by virtue of his descent from David and also because of the unbroken chain of tradition which was transmitted to him from Moses. Such were the claims of Rabbi Judah the Patriarch. In the Epistle of Sherira Gaon, in answer to a query concerning tradition,

[75] Num. 27.16–20, יפקוד ה' אלהי הרוחות לכל בשר איש על העדה . . . קח לך יהושע בן נון איש אשר רוח בו וסמכת את ידך עליו . . . ונתתה מהודך עליו למען ישמעו כל עדת בני ישראל.

[76] See Abudarham, ed. Prague, p. 95, אבא מורי ז"ל כתב בהלכות אבל ששמע כי שנפטר ר' שרירא אביו של רב האי קראו באותה שבת בפרשת יפקוד ה' אלהי הרוחות לכל בשר וג' והפטירו ויקרבו ימי דוד למות ובמקום פסוק ושלמה ישב על כסא דוד אביו קראו והאי ישב על כסא שרירא אביו ותכן מלכותו מאד.

which came to him from the community of Kairowan, he laid much stress on the fact that he was of Davidic family. In one place he said that the Exilarchs used to buy their appointments with bribes but that his ancestors, who were of the illustrious Davidic family, had not been interested in the Exilarchate.[77] In another place Sherira Gaon claimed that he was a descendant of Rabba who hailed from the Davidic family.[78] Sherira and his son Hai so vigorously proclaimed themselves descendants of David that they were suspected of scheming to set themselves up as the rulers of the Jews. Abraham ibn Daud says in his book *Sefer ha-Kabbalah* that Sherira Gaon and his son Hai were arrested by the authorities, because some of their enemies informed against them.[79] Is it not a possibility that their arrest was due to the fact that their enemies, the adherents of the Exilarch, informed the Arabian authorities that Sherira and Hai were scheming to set themselves up as rulers of the Jews and even aspired to become the Messiah?[80]

Thus, up to the time of Bar Kokba the priests strove

[77] Epistle, ed. Neubauer, דהוה זבנין ליה לריש גלותא בדמים יקרים והוה בהון מאן דמצער רבנן טובא ומעיק להו, ואבהתא דילנא דבי נשיאה אינון מיהו הוו שבקי כל הני אורחא דנשיאות ועיילי בדרבנן דמתיבתא.

[78] Ibid. ורבה בר אבוה זקיננו ומן דבית נשיאה הוא דאנחנא נקיטנא בקבלה דמן בית נשיאה אנחנו ומזרעיה דרבה בר אבוה.

[79] והלשינו פריצי ישראל ברב שרירא ורב האי ותפסם המלך ישמעאל ובזז את כל אשר להם ולא השאיר להם שום מחיה בעולם. According to Ibn Daud, Hai was a descendant of Zerubbabel. ומבית דוד היה מזרע המלוכה ומבני זרבבל . . . וראיתי חותמו חתום על גליונים שהיה שולח ואריה חקוק עליו . . . כדגל מלכי יהודה.

[80] It is possible that the so-called Epistle of Sherira was not written by him but by his son Hai for the purpose of showing that he was a descendant of the family of David and that his tradition went back to Moses. This Epistle was written in answer to a query from the community of Kairowan and he took this opportunity to show that he was the bearer of the spiritual chain. R. Samuel, the son of Meir (grandson of Rashi), ascribed this Epistle to Hai (comp. B. B. 157); Moses ben Nahman (Ramban) ascribed this Epistle to both father and son. See: מלחמות להרמב"ן כת' פרק ד' רבנו שרירא ורבנו האי.

for spiritual and secular supremacy over the Jews. After that period both authorities were concentrated in the hands of the Patriarch, who claimed descendancy from the Davidic family as well as the unbroken chain of tradition which came down from Moses. In Babylonia, however, during the amoraic and geonic periods there was a struggle for power between the two leaders, the Exilarch who claimed descendancy from David and the scholar whose tradition went back to Rabbi Judah, the Patriarch, and from him to Moses. The last two Geonim tried to grasp complete authority over the Jewish people because they were spiritual leaders (heads of the academy) and claimed descendancy from David.

IV

France and Germany

Rashi

As early as the period of the Second Commonwealth, when the Jews still lived in their own country, *Erez Israel*, there had been a Jewish Diaspora. In fact the majority of the Jews lived outside of Palestine for more than a century before the destruction of the Second Temple. After the collapse of Bar Kokba a minority remained in Palestine. A new center developed in Babylonia and was to dominate Jewish life for many centuries, extending the sway of its authority in later times to far-off parts of the world.

Many Jews migrated to Europe, and Jewish settlements came into existence in Italy, Spain and France. When the Romans captured Palestine many of the Jews taken captives were sold in the different markets as slaves. Some who reached the shores of Europe were freed and settled

there. The settlements in western Europe were augmented by soldiers who had served in the Roman army. When the armies conquered Gaul and Spain, colonies were established for the discharged and retired soldiers of the Roman armies, and thus many Jews who were part of the army remained in Gaul.[81] On the other hand many Jews came to Europe as merchants, arriving through the Mediterranean Sea to Provence, and traveled as far as the Seine, the Marne and the Rhine. The Jewish communities in Provence were mostly from Palestine.

In the course of time the Jews organized communities. Their religious life was controlled by the Patriarch and the Sanhedrin. As early as the days of the Tannaim there was a well-organized Jewish community in Rome. After the destruction of the Temple one of their leaders introduced on the eve of Passover the custom of roasting a lamb in its entirety, with the entrails, the legs and the head, to take the place of the pascal lamb which was sacrificed in Jerusalem. The authorities in Palestine, however, were opposed to this custom and conveyed word to the leader of Rome prohibiting the introduction of such custom in the Diaspora on pain of excommunication.[82]

The Patriarch or the Sanhedrin who appointed the judges of Palestine also appointed the judges for the Jewish communities of Europe. Sometimes the judges were appointed for a specific time, as in the case of Judah ben Titus, who was appointed a judge in Rome on condition

[81] Josephus, *Ant.* 18.5, says: "Tiberius banished 4,000 Jews from Rome to Sardinia. He punished a greater number of them who were unwilling to become soldiers on account of their laws." See Tacitus, *Ann.* 2.85; Suetonius, *Tib.* 36; Dio Cassius 71, 25; Jean Juster, *Les Juifs*, II, Paris, 1914.

[82] Pes. 53a; Tosefta Beza 2, תודוס איש רומי הנהיג את בני רומא לאכל גדיים מקולסין בלילי פסחים שלחו אלמלא תודוס אתה גזרנו עליך נידוי שאתה מאכיל את ישראל קדשים. Comp. also Yer. M. Ḳ. 71d

that he return to Palestine.[83] The *Parnasim* also were appointed by the authorities in Palestine,[84] and were always chosen from among the learned. It seems that the Patriarch, or the man who was delegated by him, not only appointed judges in the communities of the Diaspora but also appointed the *Archon*, the leader of the community.[85]

The Jewish people paid a fixed sum of money to the Patriarch which was called *Aurum Coronarium.*[86] At the time of the Emperor Theodosius, this *Aurum Coronarium* was taken over by the Roman authorities and went into the treasury of the Empire instead of the Patriarch.[87] The Patriarchs used to send messengers, apostles, into the different communities of the Diaspora not only to collect the money for the maintenance of the Patriarch and the academies in Palestine but also to instruct the Jews and supervise the religious life of the Jewish communities. And so Justin Martyr complained against the authorities of Palestine who sent apostles throughout the Jewish communities of the Diaspora, claiming that they were sent to

[83] Yer. Bik. 65d, אמר ר' חמא יהודה בן טיטס הוה ברומי ומנוניה ע"מ לחזור.

[84] Ibid. Ned. 42; ibid. Pea 21.

[85] Ibid. 21, ר' חיא בר בא מקים ארכנין.

[86] Theodosius, op. cit., XVI, 8, 14, p. 890, *aurum adque argentum;* XVI, 8, 29, p. 895, *quam patriarchae quondam coronarii auri nomine postulabant.* Comp. also the works of Emperor Julian, ed. Loeb, III, p. 178. In the letter of Emperor Julian, the money which was paid by the Jews to the Patriarch was called ἀποστολή, because it was collected chiefly by special apostles, messengers. See also Mid. Rab. to Gen. 80, על אילין דבי נשיאה דהווה נסבין כולא; לפי שדרכו של נשיא להיות כל הפצו משל צבור (ibid. 100).

[87] Theodosius, ibid., p. 895, *Iudaeorum primates, qui in utriusque Palaestinae synedriis nominantur vel in aliis provinciis degunt,|| quaecumque post excessum patriarcharum pensionis nomine suscepere, cognatur exsolvere. In futurum vero || periculo eorundem anniversarius canon de synagogis omnibus palatinis conpellentibus exigatur ad eam formam, quam . . . tamen quanta sit, sollerti inquisitione discutias; et quod de occidentalibus partibus patriarchis conferri consueverat, nostris largitionibus inferatur.*

instruct against Jesus.[88] These apostles were sometimes called the apostles from Zion, שליחי ציון.[89]

The organization of the communities in Europe was modeled on the structure of the communities in Palestine, where the Jews in their communal life were independent of the central authorities. At the head of every city was a *Boule*[90] or *Parnasim*,[91] or a body of seven men called שבעה מבני העיר.[92] The life and organization of the European communities were similar to the Palestinian. Every community was headed either by seven men called שבעה טובי העיר,[93] who were elected by its members, or by Elders, Presbytery, זקנים.[94] The leaders of the Synagogues were called Archisynagogues.[95] The religious life was supervised by learned men who were called *Didascaloi*, teachers,[96]

[88] Justin Martyr, *Dialogue with Trypho*, 108.

Comp. Jerome *In Galat* 1. *Usque hodie a patriarchis Iudaeorum apostolos mitti.*

Epiphane, *Haer.* 1, 30, 3. ἀποστόλων.

Theodosius, op. cit., XVI, 8, 14, p. 890. *Superstitionis indignae est, ut archisynagogi sive presbyteri Iudaeorum vel quos ipsi apostolos vocant, quid ad exigendum aurum adque argentum a patriarcha certo tempore diriguntur, a singulis synagogis exactam summam adque susceptam ad eundem reportent.*

See Juster, *Les Juifs dans l'Empire Romain*, Vol. I.

[89] Comp. Beza 25b, אמר לו רב נחמן לחמא בר אדא שליח ציון כי סלקת להתם. Rashi, ad loc., says that שליח ציון is the man who used to go from Babylonia to Palestine. However it seems that שליח ציון must be interpreted as the apostle *from* Zion.

[90] Josephus, *B. J.*, 2, 16, 2; 5, 4, 2, βουλή.

[91] Tosefta Meg. 3.4, פרנסי העיר, פרנסין שפסקו צדקה.

[92] Yer. Meg. 74a; שבעה מבני העיר also Babli ibid. 26a, שבעה טובי העיר.

[93] Comp. the *Takkanot* published by L. Finkelstein, *Jewish Self-Government in the Middle Ages*, N. Y., 1924, p. 159; also the *Responsa* of R. Meir of Rothenburg, ed. Budapest.

[94] שאלו זקני פריש מזקני רומי, זקני מגנצא. *Responsa* of R. Meir of Rothenburg, also ספר האורה passim.

[95] Theodosius, op. cit., XVI, 8, 14, *ut archisynagogi sive presbyteri Iudaeorum.* In Hebrew they were called ראשי הקהל. Comp. *Responsa* of R. Meir of Rothenburg, 942.

[96] See Theodosius, op. cit., XVI, 8, 23, *Annati Didascalo et Maioribus Iudaeorum.* Juster, op. cit., vol. I, p. 451, n. 1, suggests that *Didascalos*

who in the earlier times were probably sent by the Sanhedrin or by the Patriarchs from Palestine.[97] No one in the European Diaspora bore the title Rabbi (unless he brought the title with him from Palestine). In the laws of Theodosius and Justin there is no mention of Rabbi as leader of the Jews; only such titles as *Archisynagogi*, *Didascaloi* and *Presbyteroi* are employed.

In the seventh century the Arabs wrested Palestine from the Christians. Palestine became a part of the Caliphate, but the Jews of France were in the Christian world. There was hardly any communication between the Jewish communities in these two countries; therefore the Jews of France had to develop their own cultural life. Their community organization continued the same as theretofore. The Elders זקנים or שבעה טובי העיר continued to be heads of the communities.[98] The religious life was directed by *Didascaloi*. Judges to try civil cases were appointed by the heads of the communities.

There can be no doubt that at a very early period the Jews of France had academies of learning where Jewish lore and religion were studied, as is apparent from the fact that numerous scholars flourished in France in the tenth century. In the biblical field there were Moses ha-Darshan and Menahem ben Helbo, and in the talmudic field such men as Leontin, Joseph Bonfils, Judah ben Meir ha-Kohen (teacher of R. Gershom), Simon the Elder and others.

is synonymous with the title Rabbi and he bases this suggestion on the fact that in the Gospels in some passages *Didascalos* is mentioned while in others Rabbi is used. However, I pointed out in my essay, *The Pharisees and Gospels*, N. Y., 1938, pp. 32–39, that in the time of Jesus the title Rabbi was still unknown among the Jews and was inserted later. *Didascalos* is not synonymous with the title Rabbi, but corresponds to the word teacher.

[97] Comp. Yer. Hor. 76d; ibid. Yeb. 13a; Ned. 42b.

[98] See *Takkanot* of R. Tam, R. Meir of Rothenburg; also Finkelstein, op. cit.

This indicates that academies of learning where these scholars acquired their erudition must have been long in existence. History shows that, in traveling from place to place and establishing new centers, it took the Jews centuries to produce native scholars. For example, in Spain the first native scholars appeared as late as the eleventh century, among these being Isaac ben Baruch, Isaac ibn al-Ballia and Meir ibn Megas (1077–1141), who were the first eminent scholars Spain produced, although the Jews lived in Spain for many centuries before. Similarly, it took the Jews of Poland many centuries to create native scholars. The first scholars of eminence to appear in Poland, were the disciples of Shakna, who flourished in the sixteenth century, Solomon Luria and Moses Isserlis. However Jewish settlements in Poland date back several centuries.

The social and economic life of the Jews in France was fully established. The Jews played a very important part in the life of the country; they lived on good terms with their Christian neighbors. On Jewish festivals they received gifts from their gentile friends.[98a] Although from time to time some bigoted bishops preached against the Jews, harmony between the Jews and Christians was never completely disturbed. The language of the Jews of that period was French. Rashi in his commentary called the French language "our language."[99] Talmudic and biblical instruction in the academies, particularly under Rashi, was undoubtedly in the French language. That the Jews of France considered themselves Frenchmen may be seen from their names. Some eminent scholars of the tenth and eleventh centuries, like Judah ha-Kohen and Joseph, had French names — Leontin and Bonfils.

[98a] Rashi, Beza 24b; also תשובות חצול"ח, כ"א.

[99] Ket. 61a; Shab. 32a; Ezek. 4.16: בלשוננו.

Until the eleventh century the community life of the Jews was controlled by the leaders of the community. There were still no Rabbis, that is to say the scholars were not at the head of the community. The leaders of the community, in whom complete authority was vested, appointed the *Bet Din*, Judges. The leaders, or *Parnasim*, possessed the power of excommunication. The instruction of Jewish law was in the hands of the teachers, as before. Some of the teachers were paid while others rendered their services without compensation.[100] In the decree of Henry IV, relating to the privileges of the community of Worms, there was still no mention of any Rabbis. The decree was addressed to the *Episcopos*, *Parnas*.[101]

Even a scholar like Rabbenu Gershom, who is known in rabbinic literature as *Moer ha-Golah* (the light of the exile), had to invoke his ordinance, *Takkanah*, with the consent of the community, קהל. His famous ordinance against polygamy is known as the *Herem* of the community. This decree makes the following provision, "No man may marry two wives. This ordinance cannot be suspended except by the consent of one hundred men in three different communities of three different countries."[102] We can assume from this ordinance that Gershom could not issue any ordinance independently but that it must have the consent of the community.[102a] However, a little more than a century

[100] ראובן היה לו מערופיא של כומרים כמה שנים, והאי ראובן צורבא הוא ומלמד תורה לרבים בחנם. *Responsa* of R. Meir of Rothenburg (815) in the name of R. Gershom.

[101] Aronius, *Regesten zur Geschichte der Juden*, 1902, p. 74: *tempore Salmanni eorundem Iudeorum episcopi . . .*

[102] חרם תקנת הקהלת ששם רבינו גרשום מאור הגולה, דאין לישא שתי נשים אין להתירה רק במאה אנשים מג' ארצות ומג' קהלות. *Responsa* of R. Meir, Budapest, p. 159b. Comp. also Finkelstein, op. cit.

[102a] Dr. Finkelstein, among the *Takkanot* of Rabbenu Gershom, includes the following *Takkanah* . . . מקום שיש בו חרם בית דין אם יעבר אדם . . . חל עליו החרם עד שיבא ויטען בב'ד והזמינו לדין ע'פ החרם . . . והזמינו לדין ע'פ החרם . . . חל עליו החרם עד שיבא ויטען בב'ד. However, this

later, the twelfth century, Rabbenu Jacob Tam acted independently of the community. He affixed his own signature, in collaboration with his scholars, to ordinances.[103] From his *Responsa* we learn that not only in ritual laws but also in social and economic laws Rabbenu Tam issued ordinances without mentioning the leaders of the community. Thus it shows that the religious life of the community was controlled not only by the secular leaders of the community but also by the scholars. The scholars gained influence not only in the religious life but also in the management of the life of the community as well.[103a] In the *Responsa* of Rabbenu Tam we also find the titles, *Rab* and *Rabbi* appended to names of men.[104] The question now arises: Who was responsible for this radical change in the direction of Jewish life from secular leaders to religious leaders? How did it come about? It was Rashi who wrought the change. The part that Rashi played is not only interesting but occupies a very important phase in Jewish history which has been overlooked.

Rashi (Solomon ben Isaac) was born in Troyes, France,[104a]

Takkanah according to Rabbi Meir is ascribed to Rabbenu Tam, *Responsum*, 153, p. 23, also p. 158.

[103] צץ המטה . . . וגזרנו בנידוי ובאלה ובנקיטת חפץ . . . ועוד גזרנו ונדינו . . . יעקב בר' מאיר שמואל בה"ר מאיר. Finkelstein, op. cit.; *Responsa* of R. Meir, p. 158.

[103a] According to Rabbenu Tam, Rashi had issued an ordinance in reference to taxation. Comp. Mordecai B. Ḳ. 10. מה שנוהגין במלכות זה לתת משל אחרים . . . וכן תקן רבינו שלמה זקיני. See also Finkelstein, op. cit., ch. 3. There is also a *Responsum* in connection with taxation by Joseph Bonfils. See *Responsa* of R. Meir, p. 133.

[104] Like הרב ר' יעקב הרב ר'; מורי הרב ר' יוסף; הרב ר' יצחק בר מרדכי; אפרים.

[104a] Troyes was the main city and capital of Champagne. It was situated on the River Seine. In the mediaeval period, Troyes was one of the most important centers in the economic life of France. Among its main industries were the tanning of hides and the manufacturing of parchment for export. The latter occupation greatly aided the development of literary pursuits, for parchment at that time was the chief material used in writing.

in the year 4790 according to the Jewish reckoning, which corresponds to the year 1029–30. He received his early education in his native city under the guidance of his father and especially his maternal uncle, Simon the Elder, a disciple of Rabbenu Gershom. Rashi became known as the greatest commentator of the Bible and of the Talmud.

There were many men in France in the tenth and eleventh centuries who sought to interpret the Bible. Of these the outstanding was Moses ha-Darshan, who followed the midrashic method of interpretation. Another important interpreter was Menahem ben Helbo, who paid careful attention to the exact meaning of the words, the *Peshat.* However the commentators and interpreters did not really satisfy the needs of the people. The Bible remained a closed book to the Jews. Rashi therefore began to write his own commentary, starting with the Pentateuch and using as his basis the Masora. Rashi thought that a commentary should be written not only for scholars but for the masses. In this respect, although he lived in a Christian country he differed from the leaders of the church, who did not encourage the reading of the Bible.

In my essay on Rashi[105] I pointed out that he had actually completed his commentary on the Pentateuch before he went to Mayence and Worms, in which cities there were great academies of learning. Jacob ben Yakar and Isaac ben Judah, disciples of Rabbenu Gershom, were at the head of the academy at Mayence, while Isaac ha-Levi was at the head of the academy at Worms.[106] The prevailing view that Rashi went to Mayence and Worms for study

[105] S. Zeitlin, "Rashi [Rabbi Solomon of France]," *The American Jewish Year Book*, Vol. 41, 1939.

[106] Comp. V. Aptowitzer, מבוא לספר ראביה, pp. 395–407. Rashi went first to Mayence and then to Worms. This was pointed out very well by Aptowitzer, op. cit., in spite of the opinion of Epstein to the contrary, *Tarbiz*, IV. Comp. also Rashi, Beza 24b.

cannot be accepted.[107] Rashi was not yet personally acquainted with Jacob ben Yakar when he wrote his commentaries on the Pentateuch and the Prophets. In his commentaries on these books he quotes many scholars and many interpretations which he had from them or their writings. He mentions Menahem ben Helbo, Jacob ben Menahem, Hai Gaon, Rabbenu Gershom, Saadia Gaon and Eleazar ha-Kalir. Different books, such as the Midrashim and even Josippon,[108] are mentioned in his commentaries, but the name of Jacob ben Yakar, whom he quotes in his commentaries on the Talmud more than fifty times, is not mentioned even once in his commentaries on the Pentateuch, nor are the names of Isaac ha-Levi, or Isaac ben Judah.[109] It is impossible to assume that Rashi had written his commentary on the Pentateuch after he

[107] Ibid. See Zunz, תולדות רש"י.

[108] Ezek. 27.17; Hag. 2.

[109] In his commentary on Job 22.30, he says, שמעתי שהיו אומרים מפי ר' יעקב. The expression שמעתי means that he had tradition from his teacher, and in the same way he says: שמעתי משמו של רבנו גרשום מאור הגולה, Isa. 46.1. The name of his teacher, Isaac ha-Levi (בשם), is mentioned by him in his commentary on I Sam. 1.24; and in Prov. 19.24. In the Talmud, Pes. p. 111a, there is a statement, מפי המורה הגמרא ומקרא אשר שמע מפי רבו, by which many scholars try to prove that Rashi studied the Bible under Jacob ben Yakar. However, this is to be interpreted that a disciple of Rashi said that he heard from his teacher (Rashi) that he had tradition from his teacher, Jacob ben Yakar. Comp. also רשב"ם, כך שמע רבנו מרבו ורבו מפי רבנו גרשום.

The commentary on the 10th chap. of Pes. was not written by Rashi but by one of his disciples and so the words מפי המורה should be interpreted, in the name of his teacher, Rashi. Rashi was called המורה. Comp. Ned. 35a ואמר לן המורה. Likewise the commentary on Ned. may be Rashi's first draft with additions by his disciples or is not by Rashi at all, but the work of some of his disciples (see note 121). Rashi in writing his commentary on the Talmud revised his work several times. Comp. Tosefot, 'Ab. Zarah 61a. Most of his commentaries underwent three revisions while others only two, and some of them one. It is interesting to note that in Pes. 111 the pseudo Rashi explains the phrase חיק קבל *arku blista pont d'arbalète*-crossbow, כמו ומחי קבלי, while in Ezek. 26.9 Rashi gives another interpretation of the words מחי קבלו.

was in Mayence and Worms, and had not mentioned their names. His silence proves positively that he wrote his commentary on the Pentateuch before he met Jacob ben Yakar.

The question arises: If Rashi was a scholar, why did he find it necessary to go to Mayence and Worms? I have already pointed out in my essay, above mentioned, that the reason for Rashi's going to Mayence and Worms was to establish a text for the Talmud. There was a fixed text of the Scriptures, the Masora, but there was no established text of the Talmud. Rashi realized that before writing a commentary on the Talmud he must have an authentic text. It was in his search of an accurate talmudic text that he decided to go to Mayence, where Rabbenu Gershom established an academy of learning. Rabbenu Gershom had not only written commentaries on the Talmud but had also tried to ascertain appropriate texts. Tradition relates that Rabbenu Gershom studied under Hai Gaon.[110] If this were so we may well assume that he had received many suggestions about the proper text from the leaders of the Babylonian academy. Rabbenu Gershom's method of studying the Talmud in order to establish a definite text was fully developed by his disciples Jacob ben Yakar and Isaac ben Judah. Their commentaries on the Talmud and different versions of it have come to us under the title of "Kuntres of Mayence."[110a] After Rashi had spent some time in Mayence he decided to go to Worms, where there was another academy of learning under Isaac ha-Levi, another disciple of Rabbenu Gershom, who probably had additional versions of the Talmud. While Rashi was in Mayence and Worms he began to write his *magnum*

[110] Comp. *Responsa* of Solomon Luria 29. See below, n. 125.

[110a] See the introduction of Kohut to ערוך השלם. See also Lipschutz, רש"י, Warsaw, 1912.

opus, the commentary on the Talmud. During this time he visited his native city Troyes at intervals.[111] His commentaries on the Bible and the Talmud made him a renowned scholar and recognized authority on the Halakah, not only in his native city but in the entire country of Champagne and vicinity.

In the time of Rashi there was already a considerable group of scholars in France. Rashi sought to make use of his prestige and authority to modify the structure of the organization of the Jewish communities in France. As has been mentioned before, the authority over the individual members was vested in the hands of the *Parnasim*, the lay leaders. They had the power to excommunicate any member of the community who was rebellious or who failed to respect institutions and decrees of the community. This authority of excommunication served in some ways as a means of self-preservation for the Jews. After the Second Temple had been destroyed the Jews ceased to exist as a political nation. Scattered all over the world they were united in religion only. In order to survive in the Diaspora the leaders of the Jews felt that it was necessary to have harmony in order to preserve the community. In the *Takkanot* as well as in the *Responsa* of Rabbenu Gershom we often find the expression *Herem ha-Kahal* and we also find the name *Parnasim*,[112] while in the *Responsa* of Rashi the term *Parnasim* is not found. Instead the term בית דין חשוב is used.[113] This term can only mean a court of scholars. Thus, from this we see that Rashi tried to curtail the rights of the lay leader of the community, giving more authority

[111] תשובות חכמי צרפת ולותיר, וכשחזרתי לגרמייזא דנתי, 84. See Aptowitzer, מבוא לספר ראבי"ה, p. 397.

[112] See R. Meir of Rothenburg, Budapest, pp. 23b, 158a, also Finkelstein, op. cit., p. 118.

[113] See תשובות חכמי צרפת, 22, לעשותו ב"ד חשוב; שאין לך ב"ד חשוב שלא יהא חשוב ממנו . . . (No. 27).

and privilege to the scholars. He also was of the opinion that the integrality of the community should not suffer from outside interference; that one community should not have the right to intervene in the life of another community. Rashi was of the opinion that the decision of the respective courts of each community, no matter how small it might be, and irrespective of the learning of the court, was final and that such court was the highest tribunal for its community and that no court of another community, no matter how much more learned and scholarly it might be, had the right to alter the decisions of another.[114] In his opinion, each community ought to remain independent. He held, however, that when a member of a community was excommunicated, not because he did not obey the decrees of the community but for a religious offense, any court had the power to act over such offender and no one had the right to absolve him from this excommunication.[115]

In one of Rashi's *Responsa* we find a case where the people of Cavaillon invalidated all decrees. By this act they were of the opinion that the decrees of Rabbenu Gershom were also voided. Rashi's point of view was that no court had any right to nullify Rabbenu Gershom's decrees. In this *Responsa* Rashi continues by saying: "You wrote to me asking that I should release the man from his excommunication. Who am I to constitute myself בית דין חשוב of another community?" However, Rashi went on to say that if he were "with them" he would join to absolve this person.[116] Rashi thus introduced two important changes — the first, that only a court of scholars, not *Parnasim*, should have power to invalidate excom-

[114] תשובות חכמי צרפת ולותיר, 27. [115] Ibid.

[116] Ibid. וששאלתם פעמים התירו אנשי קבלין כל גזרות שעליהן . . . וסבורים אתם לומר שהותרה אף גזרת גדול העולם . . . ושכתבתם עלי שאתיר את הנדוי הלילה לי ליטול את השם ולעשותי בית דין חשוב אם הייתי ביניכם הייתי נמנה עמכם בהתר אבל מי אני ליטול לי השם [ב]מקומות אחרים.

munication which had been decreed upon a person, and second, that courts have authority only over their own members and that such authority does not extend to members of another community.

That Rashi tried to ignore the secular leaders, the *Parnasim*, and to replace them with religious leaders, scholars, may be illustrated by the following *Responsa*, one by Rabbenu Gershom and one by Rashi. In the *Responsum* of the former we find the following case: Some Jews were traveling on a boat with a cargo of gold; the boat was wrecked but the people were saved, while the gold which was in boxes sank. Later gentiles salvaged some of the boxes of gold. The community decreed that any Jew who might obtain some of the gold should return it to the original owner. One gentile who salvaged a box of gold belonging to A sold it to B, who refused to return it to A because he acquired it by purchase, claiming "It was lost and I bought it from a gentile."[117] Rabbenu Gershom decided that the decree of the community was law and had to stand and that B had no right to keep the gold and had to return it to A, the lawful owner. This decision of Rabbenu Gershom was based on a passage in the Talmud which reads as follows: תנו רבנן למא לא נתפרשו שמותם של זקנים הללו שלא יאמר אדם פלוני כמשה ואהרון פלוני כנדב ואביהו פלוני כאלדד ומידד ואומר ויאמר שמואל אל העם ה' אשר עשה את משה ואהרון ואומר וישלח ה' את ירובעל את בדן ואת יפתח ואת

[117] Ibid. יהודים הולכים בספינה וטבעה הספינה והוצלו הנפשות, והממון היה בתיבות . . . והקהלות שהיו נקבצים שם . . . נזרו גזירה באלה ובשבועה על מי שיגיע לידי מכל מה שנאבד באותה ספינה שיחזור לבעל אבידה כמנהג הנוהג ברוב קהלות ישראל . . . ובעוד שלשים יום שהיה עוד ראובן מחזר על אבדתו מכר גוי אחד הזהב של ראובן שנאבד בספינה לשמעון ואינו רוצה להחזירו לראובן, ואמר כבר זכיתי בו שאבדה ששטפה נהר מותרת היא. כך דעתי נוטה שאין בדברי שמעון ממש . . . ואפילו נתייאש ראובן. אפילו הכי כיון שגזרו הקהל . . . צריך לשמעון להחזיר . . . ואם תאמר כי אמרינן הפקר ב"ד הפקר ב"ד חשוב כגון שמאי והלל אבל האידנא ליכא, הרי דת"ר . . . וישלח ה' ירובעל ואת בדן ואת יפתח ואת שמואל, ונתמנה פרנס על הצבור הרי הוא כאביר שבאבירים הלכך מה שעשו הקהל מעשה.

שמואל ירובעל זה גדעון ולמה נקרא שמו ירובעל שעשה מריבה עם הבעל בדן זה שמשון ולמה נקרא שמו בדן דאתי מדן יפתח כמשמעו ואומר משה ואהרון בכהניו ושמואל בקראי שמו שקל הכתוב שלשה קלי עולם כשלשה חמורי עולם לומר לך ירובעל בדורו כמשה בדורו בדן בדורו כאהרון בדורו יפתח בדורו כשמואל בדורו ללמדך שאפילו קל שבקלין ונתמנה פרנס על הצבור הרי הוא כאביר שבאבירים.[118]

In a *Responsum* of Rashi the following case is recorded: A was betrothed to a daughter of his brother, B; both men deposited a certain amount of money in the hands of C on the condition that if either failed to keep the contract he would forfeit the amount deposited. A refused to marry B's daughter, and B now contended that the money belonged to him. Some students were of the opinion that A should not forfeit the money since it was an *Asmakta* and *Asmakta* is not valid.[119] Rashi argued that since according to the Halakah *Asmakta*, when made in the

[118] "Why were not the names of these Elders mentioned? So that a man should not say: Is So-and-so like Moses and Aaron? Is So-and-so like Nadab and Abihu? Is So-and-so like Eldad and Medad? Scripture also says: 'And Samuel said to the people: It is the Lord that made Moses and Aaron, and it says: And the Lord sent Jerubbaal and Bedan and Jephthah and Samuel.' It says also: 'Moses and Aaron among his priests and Samuel among them that call on his name.' [We see therefore that] the Scripture places three of the most ordinary men on the same level as three of the most estimable men of great dignity, to show that Jerubbaal in his generation was like Moses in his generation. Bedan in his generation was like Aaron in his generation, Jephthah in his generation was like Samuel in his generation, [and] to teach you that the most worthless, once he has been appointed a *Parnas* of the community, is to be accounted like the mightiest of the mighty. Scripture says also: 'And thou shalt come unto the Priests, the Levites, and the Judge that shall be in those days.' Can we then imagine that a man should go to a judge who is not in his days? This shows that you must be content to go to the judge who is in your days. It also says: 'Say not, How was it that the former days were better than these.' " Comp. also Mordecai to B. M. 2, ומם מפני תקנות הקהלות . . . ומי שנתמנה פרנס על הצבור כאביר שבאבירים, גרשום ב"ר יהודה.

[119] ששידך ראובן על בת אחיו וקיימו דבריהם והניחו תשמת יד ביד קבלנים על מנת שהחוזר בו יפסיד ערבנו כדרך שהורגלו ברוב מקומות ועברו כמה שנים וחוזר בו ראובן והנה שמעון אחיו תובע ערבנו מיד הקבלנים שהחזירוהו לראובן ותלמיד אחד מסייעו ואומר . . . דאסמכתא ואסמכתא לא קניא. תשובות חכמי צרפת ולותר, 27.

presence of בית דין חשוב, is valid[120] and since this arrangement was made in the presence of the local court, any local court appointed by the community has the same powers as the Court of Moses. Therefore he held that the money should be turned over to B.[121] In this *Responsum* Rashi supported himself by the same passage of the Talmud which Rabbenu Gershom quoted in the foregoing case. Rashi does not mention the word *Parnasim* which is found in the Talmud and quoted by Rabbenu Gershom. It is worth while noting that this passage of the Talmud bases the idea that three ordinary men appointed to the position of *Parnasim* were equal to such great men as Moses, Aaron and Samuel, on the biblical passage of Samuel, reading as follows: "And the Lord sent Jerubbaal, and Bedan, and Jephthah, and Samuel." Rashi in his commentary on this biblical passage does not mention the word *Parnas* at all, but *Bet Din*. ירובעל זה גדעון, בדן זה שמשון שמשבט דן בא, ואת יפתח, הרי שלשה קלי עולם עם שלשה חמורי עולם משה ואהרון ושמואל,

[120] Ned. 27b, והלכתא אסמכתא קניא . . . והוא דקנו מיניה בב"ד חשוב.

[121] אם נעשה הדבר בפני חשובי העיר קיימ' לן אסמכתא קניא והוא דקנו מיניה בב"ד חשוב ואפילו יש חשובין מהן בשארי מקומות אין לנו אלא ב"ד של אותו מקום דא"כ אין לדבר סוף . . . כל שלשה שנתמנו בית דין על ישראל הרי כב"ד של משה (תשובות חכמי צרפת). See also ספר האורה.

According to Frank, קהלות אשכנז ובתי דיניהן (p. 134) Rashi was of the opinion that any court comprised of חשובי הקהלה בכל מקום was called בית דין חשוב. Frank bases this on the *Responsum* of Rashi and writes the following: שבעיניו כל בי"ד של חשובי הקהלה בכל מקום שהוא שקול כנגד בי"ד חשוב, כשנשאל רש"י בדבר תקפם של תנאי שדוך כדין האסמכתא הוא הושיב כך ואם נעשה הדבר זה בפני חשובי העיר קיימא לן אסמכתא קנייא והוא דקנו מיניה בבי"ד חשוב ואפילו יש חשובין מהן בשאר מקומות אין לנו אלא בי"ד של אותו מקום'. However, it seems that Frank did not fully comprehend this *Responsum* wherein it is stated כל בי"ד של חשובי הקהלה בכל מקום שהוא שקול כנגד בי"ד חשוב . . . קיימא לן אסמכתא קנייא והוא דקנו מיניה בבי"ד חשוב. The phrase אסמכתא קניא . . . והוא דקנו מיניה בב"ד חשוב is not Rashi's, but is a quotation from the Talmud, Ned. 27b, and according to Rashi בי"ד חשוב מומחה לרבים, a scholar (if we should assume that the commentary of Ned. does not come from Rashi, that would not change the matter at all, since this commentary was written by one of his disciples, who naturally followed the opinion of his master). Comp. Tosefot, Sanh. 5, במומתה דסמיכה. Ibid. 33a, מומחה לרבים היינו גמירנא וסבירנא.

לומר לך הקל בדורו כחמור בדורו, כל בית דין המתמנה על הדור צריך לילך אחריו כאילו הוא אביר שבאבירים. Rashi purposely ignores the term *Parnas* as the leader of the Jewish community since he was of the opinion that the scholars, *Bet Din*, should be the leaders rather than the *Parnasim*.

In the *Takkanot* which we have from Rabbenu Tam we read that a *Rav* could not put any men in *Herem* without the consent of the *Kahal*, community, and the *Kahal* could not put any men in *Herem* without the consent of the *Rav*.[122] This *Takkanah* Rabbenu Tam called a renewal,[123] which we may infer was instituted not later than the time of Rashi. Rashi tried to elevate the scholars in the Jewish community. Up to his time, although there were men of learning in the Jewish communities who gave decisions on ritual law[124] some of whom were appointed by the leaders of the community to a court, they were merely employees such as a *Hazzan* or *Mohel* of our time. From the time of Rashi, however, the members of the *Bet Din* were no longer employees. Although they were paid for their services from the community chest they assumed leadership in their respective communities on a par with the *Parnasim*. The decree, "No *Kahal* can put any of its members in *Herem* without the consent of the *Rav*," shows the new status of the *Rav*. Rashi calls Rabbenu Gershom *Rav*.[124a] Such a

[122] *Responsa*, R. Meir of Rothenburg, op. cit., ed. Sudzilkov, p. 11c. שלא ינדה הרב שום אדם בלא רשות הקהל וגם הקהל לא ינדו אדם בלי רשות הרב.

[123] ואחר כך חדשנו תקנת אלו ע"פ החרם אף על פי שהיתה כבר תקנה ישנה.

[124] According to the Talmud any scholar, before whom a question on ritual law is presented, is bound to give his decision. Comp. 'Ab. Zarah 19b; ועצומים כל הרוגיה זה תלמיד שהגיע להוראה ואינו מורה.

[124a] עכשיו נודע שגזר רבינו גרשום ... היתה בה בשם גזרת הרב. תשובות חכמי צרפת ולותר, 21.

Nahmanides in his commentary on the Pentateuch calls Rashi הרב. In Tosefot 'Ab. Zarah 57b Joseph Bonfils is likewise called הרב הגדול. The name Rab רב in the Talmud, however, is not a title but has the connotation of master and is in opposition to תלמיד, disciple, as דברי הרב ודברי התלמיד.

title was never known in France up to the time of Rashi but was previously used in Babylonia during the amoraic and geonic periods.

The question now arises: On what authority did Rashi act to give religious power to members of the *Bet Din*? In the previous passages we have shown that Rashi before going to Mayence was a mature scholar and had already completed his commentary on the Pentateuch. While in Mayence he collected the different readings of the Talmud and the traditions which Rabbenu Jacob and Isaac received from Rabbenu Gershom. Rabbenu Jacob was a disciple of Rabbenu Gershom, from whom he received his rabbinical authority. Tradition has it that Rabbenu Gershom received his authority from Elijah the Elder, who in turn received his authority from Hai Gaon. Another tradition states that Rabbenu Gershom received his authority direct from Hai Gaon.[125] Thus Rashi derived his spiritual

[125] See *Responsa* of Solomon Luria in which he gives the chain of tradition from Hai Gaon and claims that he copied from a scroll which came from the hand of R. Meir of Rothenburg. אעתיק לך מה שמצאתי הועתק: רב האי קבל תורה מרב שרירא גאון אביו . . . ומסרה רב האי לרבנו אליהו הזקן שיסד אזהרות בעל אחותו של רב האי גאון . . . וגם ר' חננאל קבל מרב האי גאון . . . ובימיהם היה ר' אלעזר הגדול . . . קבלו ר' גרשום . . . ומהם רבי יעקב הזקן בר' יקר ורבנו יצחק בר' יהודה . . . ור' יצחק הלוי . . . ורבנו שלמה הנקרא רשי קבל מר' יעקב . . . קבל הרב ר' מאיר רחמנה נטריה.

Tradition has it that as early as the ninth century Natronai Gaon was in France, which indicates that the influence of the Geonate was penetrating into France. In a *Responsum* to Hai Gaon (published in טעם זקנים by אשכנזי אליעזר), there is a query as to whether Natronai Gaon was transported to France on a magic carpet. From this *Responsum* we may infer that the Jews of France had the idea that this famous Gaon was in their country.

Prof. Ginzberg, in his book *Geonica*, I, p. 17, suggests that the query addressed to Hai Gaon was not from the Jews of France but from the people of Spain and suggests the reading of ספרד instead of צרפת. Ginzberg's hypothesis is not conclusive, since we do know that the Jews of France became acquainted with the Gaonate before Rabbenu Gershom, as Joseph Bonfils had already collected many of the geonic *Responsa*, which shows that the scholars of France were very well acquainted with the academies of Babylonia. Comp. Tosefot Ḥul.

authority in an unbroken chain from Hai Gaon of the Babylonian academy, who in turn derived his authority from an unbroken chain directly from Moses. Rashi returning to France was in position to claim spiritual authority and was ready not only to establish academies in his own town but to elevate the scholars as leaders in the community.[125a]

The scholars had twofold authority over the members of the community. First, by the chain of tradition which went back to Moses, and, second, by election of the community. Authority of the communities over the individual members dates back to the early period when the Jews settled in France and modeled the organization of their communities on those in Palestine.

From the *Takkanot* which were promulgated by the early Rabbis of France, Rabbenu Tam and his colleagues,

97a, ובתשובת הגאונים שכתב [בכתב יד] רבינו יוסף טוב עלם מצא רבינו תם. See also ibid. Pes. 30a. The statement above clearly indicates that in the tenth century the geonic influence was very great among the scholars of France. It seems to me that the phrase לפי שהראוני מן השמים frequently used by Rabbenu Gershom in his *Responsa* shows direct influence of the Geonim. This phrase כך הראוני מן השמים was used by Hai Gaon and by other Geonim. Comp. חמדה גנוזה.

On the basis of this *Responsum* to Hai Gaon from the Jews of France, I stated in my article on Rashi that there was a tradition that Natronai Gaon was in France. Some took exception to this and said that I relied on a faulty text. However, besides the fact that Ginzberg's hypothesis is not conclusive, historians and even bibliographers must take cognizance of the fact that variance in a manuscript may be due either to ignorance of the copyist, in which case such reading must be ignored, or, may be due to an opinion prevailing at the time of the copyist which he wished to convey. That is the case with this *Responsum* to Hai Gaon. Even if we should assume that Ginzberg is correct in his suggestion, I believe that the word צרפת was inserted because of the prevailing tradition of long standing among the Jews of France that Natronai Gaon was in their country.

[125a] Rashi held that Rabbenu Gershom was the authority for the entire Jewry of Germany and France, רבינו גרשום זכר צדיק וקדוש לברכה שהאיר עיני גולה וכולנו מפיו חיין וכל בני גלות אשכנז וכותים תלמידי תלמידיו הן. (תשובות חכמי צרפת ולותיר ס' כ"א).

we find that the spiritual leadership was on a par with the secular leadership. In one *Takkanah* which came to us from Rabbenu Tam, as recorded above, the leaders of the *Kahal* could not put any of its members in *Herem* without the consent of the *Bet Din*, as the *Bet Din* did not have the right to put any man in *Herem* without the consent of the leaders. Consequently, since the *Bet Din* was elected by the community the members of the community had to obey the decision of the *Bet Din*, and could not contest its decision by appealing to a *Bet Din* of another community, even though the latter may have greater scholars,[126] for the community which delegated the powers to the *Bet Din* had full right over its members. Moreover, to preserve integrality of the communities a *Takkanah* was ordained that no Jew could accept a position in a community, either spiritual or secular, from the government.[126a] On many occasions the German kings and the Polish government tried to appoint Chief Rabbis and secular leaders but always without any success.[127] The Jews adhered to their old tradition of retaining autonomy in the management of

[126] בזמן הזה שאין נשיא בישראל נראה דגדול הדור הוה ב"ד הגדול . . . אחרי ר' מתיא בן חרש לרומי הרי אפילו ברומי נקרא ב"ד יפה לפי שאין למעלה ממנו . . . שאל רבנו לרבנו שמשון משאנץ והשיב מנהג חרם של ב"ד (הגדול) בעירנו כי מנהג כך הוא אחד מבני עירנו המזמין חבירו לדון ע"כ ידון כאן ואין יכול לדחותו ולומר נלך לבית הועד או לב"ד הגדול. Mordecai to Sanh. 709.

Dr. Finkelstein in his book, op. cit., p. 196, quotes among the *Takkanot* of Rabbenu Tam the following tradition of an ordinance in the name of Rabbenu Gershom, גם הקבלה כך היא מתקנת ר"נ ללכת לב"ד הגדול. Finkelstein rightly remarked that this passage is not found in manuscript B. It is quite evident from the previous statement of Rabbenu Tam that none of the litigants had the right to summon an adversary to appear before a superior court.

[126a] גזרנו ונדינו והחרמנו שלא יהא אדם רשאי ליטול שררה על חבירו על ידי מלך שר ושופט . . . לא בדברי הבאי ולא בדברי שמים. See Finkelstein, op. cit., p. 151. Comp. also R. Meir of Rothenburg, p. 22, (137). Comp. also *Responsa* ריב"ש, 271; תשב"ץ, 142; and יכין ובעז, 17.

[127] See Frank, קהלות אשכנז ובתי דיניהן, חל אביב, 1937. Asaf, לקורות הרבנות. רשומות, 2.

their social and spiritual life and they alone could choose their leaders. The titles of the spiritual leaders, Rav and Rabbi, used in the early rabbinic literature, show the source of their twofold powers. Rav is a Babylonian title, Rabbi a Palestinian title.[127a] The title Rav indicates that spiritual authority goes back to the Geonim. The title Rabbi indicates the origin of French Jewry as being Palestinian, and their authority as derived from the Patriarch. Again, the title Rabbi in Franco-German rabbinic literature indicates merely scholarship, while the title Rav indicates authorization (*Semikah*) and position. Any one who possesses scholarship but has no position bears the title Rabbi, while any one who holds a position in the community and has authorization is called Rav. Up to our own days the name Rav indicates position, as one might say: the Rav of such and such a city.[128] This reform

[127a] Abba the disciple of Rabbi Judah, the Prince, upon his return to Babylonia established the academy in Sura and organized the Jewish religious life of the country. The title Rab was given to him to differentiate him from his master, Judah, who was known by the title Rabbi, i. e., Rabbi par excellence, and so Abba became known as Rab, i. e., Rab par excellence, and all his successors in Babylonia thereafter bore the title Rab.

[128] הרב דמתא. Only those scholars who had received *Semikah* were called ha-Rav Rabbi. Rabbenu Tam in his *Responsa* called the scholars who had *Semikah* רב רבי, while those who did not obtain authorization he addressed by the title Rabbi, or חבר, but not ha-Rav Rabbi. Comp. also *Responsa*, ריב"ש (Isaac ben Sheshet, 271) כמנהג צרפת ואשכנז שהרבנים סומכים את תלמידהם ברבנים . . . סמיכה שנהגו בצרפת ואשכנז שהרבנים נסמכים והם סומכים אחרים . . . ולהקרא רב.

According to the Tosefot Sanh. 5a, דמי שיש לו רשות יכול ליתן רשות כמו שמצינו לענין דיני קנסות דמי שהוא סומך יכול לסמוך ויהיב ליה רשותא. The terms סמיכה, רשות, and קבלה were interchangeable at the time of Rashi and R. Tam but had the same meaning—authorization. Thus the scholars of France could trace their authority as having been derived from the unbroken chain which came directly from Moses.

In the תחצו"ל 47 and 49, Isaac ha-Levi, the teacher of Rashi, is called ha-Rav Rabbi, הרב רבי יצחק, and in Tosefot Giṭ. 85b Joseph Bonfils is also called ha-Rav Rabbi. However, the names of these two scholars are found throughout Rashi's commentaries and his other

replacing secular authority with religious authority of scholars, as instituted by Rashi and systematized by his grandsons, Samuel and Jacob, in their synods, in cooperation with their colleagues, wrought far-reaching influence on the religious and social history of the Jews in France, Germany, and all of eastern Europe.

V

Spain and the Orient

Maimonides

The history of the Jews in Spain was different from that in France. The Jews had come to Spain with the Romans at a very early period. At the beginning of the fifth century, when the Visigoths conquered Spain, the Jews began to suffer from persecutions and their condition became gradually helpless. In the time of King Egica the Jews were put in a state of servitude; their properties were confiscated; they were forbidden to exercise the rights of their religion; children were taken from their families and put in Christian homes, so as to bring them up in the Christian religion. Very few Jews were left in Spain, for they expelled them unless they accepted Christianity. In 711, the Visigoth kingdom was destroyed, when the Arabs and Berbers came

writings, as well as in the Tosefot, without the title ha-Rav, but only by the title of Rabbi or Rabbenu. The use of ha-Rav Rabbi, in connection with these scholars in two isolated places can be explained as being due to a copyist's error or due to the fact that when this Tosefot was written the title ha-Rav Rabbi, being well established, was given as a matter of course, to such an eminent scholar as Joseph Bonfils, although in his time there was no such title.

I purposely transliterated the name *Rav* in the Ashkenazic form so as to emphasize the well-known Yiddish term, the Rav, which has been in use among Franco-German Jewry from the time of Rashi down to our own days, when referring to a Rabbi of a community.

across the Strait of Gibraltar from Africa and conquered Spain. Many Jews who lived among the Arabs and Berbers in Babylonia and Africa migrated with them to Europe. Thus the Jewish population had been more of Babylonian origin[129] than of Palestinian origin and they modeled their religious and social life after that of the institutions of Babylonian Jewry.

Rabbinic scholarship started to develop in Spain much later than in France. The first name which has come down to us from Spain is Hasdai ibn Shaprut (who lived in the tenth century), a patron of learning. His authority over the Jews was due to his holding a position from the rulers of Spain. In the eleventh century Samuel ha-Nagid (Prince), who was a scholar of repute,[130] also wielded

[129] That French Jewry is of Palestinian origin and that Spanish Jewry is mostly of Babylonian origin is demonstrated by the different customs which prevailed in the respective countries. The customs which prevailed in France are to be traced to Palestine, while many of the customs among the Spanish Jews were those practiced in Babylonia. One example will suffice to substantiate this: In the so-called Rashi Phylacteries (*Tefillin*) the portions of the Bible are arranged in the following manner: Ex. 13.1, 13.11; Deut. 6.4, 11.13. In the *Tefillin* according to Rabbenu Tam the portions of the Bible are arranged as follows: Ex. 13.1, 13.11; Deut. 11.13, 6.4. As a matter of fact the textual arrangement of the so-called Rashi's *Tefillin* is based on that which prevailed in Palestine, while Rabbenu Tam's *Tefillin* is the one used in Spain, based on the Babylonian usage. Comp. קובץ תשובות הרמב"ם, כו'. This proves that the custom of French Jewry was a continuation of the Palestinian, and Rashi, although he was influenced by the Geonim of Babylonia, nevertheless was of the opinion that the old custom should not be abrogated and should be continued in the matter of *Tefillin* (Rashi was zealous to retain those customs which were in vogue among the Jews, אין לשנות המנהג, מנהג אבותינו תורה היא). In due time the influence of Babylonia continued to increase greatly and Rabbenu Tam, who changed many customs, was of the opinion that the portions of the Bible in the *Tefillin* should be arranged according to the Babylonian usage.

[130] His introduction to the Talmud does not show great scholarship; introductions were written before his time, which he made use of. The importance of Samuel, the Prince, in Jewish history is rather due to his leadership. He was not only a patron of Jewish learning,

authority over the Jews because he held an important position in the government. His position was similar to the position of the Exilarch of Babylonia, who was also appointed by the government. The difference between them was that the Exilarch claimed descent from the Davidic family, while neither Hasdai nor Samuel could make such a claim.

The early Jewish scholars in Spain were distinguished especially in grammar, poetry and theology, a circumstance which reflects the environment of the country. Hebrew, being a Semitic language, is cognate to Arabic. The Arabs of that time had developed a great literature and a refined grammar. Under the influence of the Arabs there arose among the Jews men of great distinction in the Hebrew tongue, like Menahem ben Saruk, Dunash ben Labrat (tenth century), Hayyuj, and particularly Jonah ibn Janah (1040). The Jews in Spain in that period did not produce any great biblical scholars, but in philosophy and poetry they produced men of great renown, such as Solomon ibn Gabirol, author of the theological work *The Fountain of Life.*

On the other hand, in France, as early as the tenth century, the Jews produced biblical scholars such as Moses ha-Darshan, and Menahem ben Helbo. This was due to the fact that it was necessary to refute Christian theologians who interpreted many passages in the Bible as referring to Jesus. The study of the Bible among the Jews of France increased and there came into existence two schools of interpretation, one which emphasized fidelity to the text, *Peshat*, and the other which resorted to speculation, *Derash.* The latter was well known among the Jews in

like his predecessor Hasdai, but he understood Jewish scholarship and encouraged it. He was the ideal leader of the Jews in Spain and he was responsible for the so-called Golden Period of Jewish culture.

Palestine, who also had many polemics with the Christians. Since there were no Christians at the time in that part of Spain conditions did not create biblical scholarship.[131]

In the *Sefer ha-Kabbalah*, Abraham ibn Daud relates a story known as "Four Captives." A great Rabbi named Moses was taken captive while on a voyage from Babylonia and brought to Cordova. The Jewish community ransomed him. Coming into synagogue where Nathan the *Dayyan* was giving a dissertation on a passage in the Talmud, Moses noted that the *Dayyan* misunderstood the passage and corrected him. Ibn Daud concluded correctly that the Jews of Cordova were not scholarly.[132] This passage[133] was a very simple one and any one who had a little knowledge of the Talmud could have comprehended it; there was no excuse for misinterpreting it. It is well known that the Rabbis always set the standard of the people in their community and hence Ibn Daud was quite correct in his conclusion. Nathan the *Dayyan* was not a scholar but he was indeed an honest, humble man and proposed to the community that Moses the Babylonian should take his place, and thus Moses was duly appointed the *Dayyan*.[134] After the death of Moses his son Enoch took his place. Enoch also was not a native of Spain, having been born in Babylonia (he died in 1015). Samuel the Prince was among his disciples. Although at this time there were several great scholars in Spain, most of them were not natives.

[131] The study of the Bible in France is also due to the fact that French Jewry is of Palestinian origin. The Midrash, that is, the interpretation and speculation of the Bible, was well practiced in Palestine, while the lack of biblical scholarship among the early Spanish Jews may be ascribed to the fact that most of them came from Babylonia where the Bible was not studied.

[132] אבל לא היו אנשי ספרד בקיאין בדברי רבתנו.

[133] Parah 3.9, על כל הזיה טבילה; also Tosefta Yoma 4.2.

[134] יצא ר' נתן הדיין ואמר להם אין אני דיין . . . הוא רבי ומורי . . . מנוהו על קהל קורטובא.

The most outstanding of them all was Isaac al-Fasi, who migrated from Morocco and died in 1103. The two scholars of greatest importance were Isaac the son of Baruch, Isaac the son of Judah, and Isaac the son of Reuben, natives of Spain. The first eminent scholar which Spain produced was Joseph the son of Meir ibn Megas (1077–1141). Thus we see that rabbinical scholarship in Spain reached its zenith with Ibn Megas in the twelfth century, while in France men of great scholarship and authority flourished in the eleventh century.

The story about the "Four Captives" may be entirely legendary, but it served the purpose of showing how the chain of tradition was forged in Spain. Moses, the first Rabbi in Spain, had come from the Babylonian Academy. Ibn Daud tells us that Samuel the Prince was also a disciple of Rabbenu Nisim, whose master was Hai Gaon.[135] Thus the chain of tradition from the Tannaim, the Amoraim and the Geonim up to the Rabbis of Spain was unbroken. All the early Rabbis of Spain had the title Rab, and not Rabbi, since they originated from Babylonia and not from Palestine, where they bore the title Rabbi.[135a] In this they differed from the scholars of France who had the double title of Rab and Rabbi.

Maimonides was born in the city of Cordova, the southern part of Spain, in 1135. His father Maimon had the title *Dayyan* and was a pupil of the well-known scholar Joseph ibn Megas. Owing to the persecutions which the Jews had to endure from the Almohades (a fanatical sect

[135] מגדולי תלמידיו היה רב שמואל הנגיד . . . וקבל ר' נסים מרבנו האי . . . ורב שמואל . . . היה שותה מימיו של רבנו האי. See B. Revel's very interesting article, חדוש הסמיכה מלפני ארבע מאות שנה, *Horeb*, 1939.

[135a] In some of the *Responsa* of the fourteenth and fifteenth centuries some of the scholars in Spain are also designated by the title ha-Rav Rabbi. I shall deal elsewhere on the *Semikah* system in Spain.

of Islam) in Cordova, Maimonides had to leave Spain for Morocco at the age of twenty-four. From there he proceeded to Palestine and settled in Egypt. Although Maimonides occupied a very high position in Egypt as a physician to the court, he still remained a Spaniard and always signed his name, Moses the Spaniard. His entire education was Spanish.[136] Unlike Rashi he did not hold the opinion that the Rabbis should be the leaders but, on the other hand, in his book *Mishneh Torah* he said that the Exilarch should rule. The Exilarchs in Babylonia, according to him, occupied the position of the ancient kings. The Exilarchs had the right to rule the Jewish communities with or without the consent of the people and only the Exilarchs had the right to appoint the *Bet Din*.[137] During the time of Maimonides, the head of the academy in Bagdad was a man named Samuel ben Ali, who held views opposed to those of Maimonides. He believed that the entire authority of the Jewish people should be vested in the spiritual leader, the head of the academy. When Samuel the Exilarch died, Samuel ben Ali tried to abolish the office of the Exilarchate. He considered himself the successor of the Geonim of the two schools of Sura and Pumbedita.[138] Claiming descent from the Prophet Samuel, Samuel ben Ali maintained that the Jews of the Diaspora ought not have a secular leader like a king. What the Jews did need, in his opinion, was a scholar to guide them and to explain the precepts and the laws.[139] He was opposed to the collection of taxes from the

[136] Comp. S. Zeitlin, *Maimonides*, N. Y., 1935.

[137] See *Mishneh Torah*, Sanh. 4.13. ראשי גליות שבבבל במקום מלך הן עומדים ויש להן לרדות את ישראל בכל מקום ולדון עליהם בין רצו ובין לא רצו . . . וכל דיין הראוי לדון שנתן לו ראש גלות רשות לדון יש לו רשות לדון בכל העולם.

[138] See S. Zeitlin, ibid.

[139] See Asaf, *Tarbiz*, 1930, אגרות ר' שמואל בן עלי.

Jews by the Exilarch as interfering with the rights of the academy, the seat of the Torah.[140]

Samuel ben Ali argued that in the biblical time of Samuel the Prophet, when the Jews asked the Prophet to appoint a king, God was angry and said: "They have rejected me." Samuel continued his argument by saying that at that time the Jews were a nation and had to protect their country with arms, hence they had to have a king; but in the Diaspora, where the Jews have no kingdom of their own and no wars to carry on, they certainly do not need any secular leadership. What is needed is a scholar to guide them in their religion and only he has the right to appoint the *Bet Din*. Only the head of the academy is entitled to all the privileges and authority because he takes the place of Moses, for we are told in the Talmud that Moses received the Torah on Mount Sinai and transmitted it to Joshua and so on, until it reached those at the head of the academies.[141] And so Samuel ben Ali claimed that his authority came to him direct from Moses.

Samuel ben Ali did not succeed in his endeavor to abolish the Exilarchate, and an Exilarch was appointed. The new Exilarch sent a letter to Maimonides in which he sought the endorsement of his appointment, for the prestige of Maimonides was great. This letter was read publicly in Maimonides's home on the Festival of Tabernacles, in the presence of the leaders of the entire Jewish community. The fact that the leaders of the Jewish community stood up as the letter was read was a token of recognition accorded by them to the Exilarch.[142] Samuel ben Ali in a letter to

[140] Comp. Asaf, ibid.

[141] Ibid.

[142] See *Birkat Abraham*, ed. Goldberg, 1859, והגיעני כתבו וקראתיו במשכני . . . כל אנשי מצרים מקטן ועד גדול אשר היה לו מעלה והיה זה בסכת וכלם עמדו . . . וכל זקני הקהל עומדים.

Maimonides criticized him on the ground that he had no right to endorse the appointment of the Exilarch.[143]

Maimonides held then that only the Exilarch had the right to appoint the *Dayyan* and that he should not be chosen by the community; consequently, since the appointment of the *Bet Din* depended on the authority of the Exilarch, he might, in his discretion, appoint a *Dayyan* of greater scholarship to a larger community and one of lesser scholarship to a smaller community. Hence, if a litigant (the creditor) did not wish to be tried in the court of a particular *Dayyan* he could demand to be tried in a larger city where a greater court was sitting.[144] Such freedom of choice did not exist in France, since there the appointment or election of the *Bet Din* came directly from the community and every individual of the community had to abide by the authority of the community, which was delegated to the *Dayyan* or the Rav.

Maimonides was of the opinion that the Rabbis should not receive any honorarium for their services and he tried to show from history that in the time of the Talmud all the scholars of that period were occupied in manual work and were not compensated because of their religious position.[145] There may have been some psychological reason for Maimonides's opposition to the acceptance of a salary by the Rabbis; he was afraid that if they should accept an honorarium for their religious services they would be humiliated in the eyes of their leaders. In a letter to his disciple Ibn Aknin, Maimonides advised him very strongly against taking any honorarium from the Exilarch, but to

[143] See S. Zeitlin, *Maimonides*, p. 99.

[144] *Mishneh Torah*, Sanh. 6.9, וכן הדין בזמן הזה שאין שם בית דין גדול אבל יש מקומות שיש בהן חכמים גדולים מומחין לרבים ומקומות שיש בהן תלמידים שאינן כמותן אם אמר המלוה נלך למקום פלוני שבארץ פלונית לפלוני ופלוני הגדול ונדון לפניו בדין זה שכופין את הלוה והולך עמו וכן היו מעשים בכל יום בספרד.

[145] His Com. to Abot 4.

study medicine, or to establish himself in business, or even to engage in manual work. He warned him that should he take any money from the Exilarch he would never get any recognition and would be constantly humiliated.[146]

Many Rabbis in Spain were inadequately paid by the community; since not all of them were of wealthy family, or were physicians, as were Maimonides and Moses ben Nahman, their economic position was really deplorable.[146a] Alami in his אגרת המוסר[147] gives a graphic picture of the conditions of the Rabbis in Spain during the end of the fourteenth and the beginning of the fifteenth century. He states that "in this country" (Spain) where the Christians give so much wealth to their leaders and bestow honor to their churches, many dukes and knights are anxious to bring their sons into the church. On the other hand the Jews feed their spiritual leaders with meager bread and water. He continues to reproach the Jews of Spain by saying, "It is a great disgrace" that many rich Jews live like kings and dress like dukes, while their scholars eat bread and misery. "This is the reason why the honor of the Torah is so low." When the masses see the disgrace in which the scholars are being maintained, they choose to educate their children in manual labor rather than train them to Jewish scholarship.[148]

[146] *Birkat Abraham*, שתרויח מארויגה או מחייטות או נגרות משתרויח מרשות הגולה. ואם יהיה לך עסק עמהם תשפל ואם תקח מהם דבר תתבזה ועצתי שתעסוק במשא ומתן ותלמוד חכמת הרפואה.

[146a] Comp. תשב"ץ, 147, אם הוא (הרמב"ם) ז"ל עזרו המזל להיות קרוב למלכות ונכבד בדורו מפני רפואתו וחכמתו ולא נצרך ליטול פרס מהקהלות מה יעשו הרבנים והחכמים אשר לא באו לידי מדה זו היטותו ברעב או יתבזו מכבודם או יפרקו מכבודם או יפרקו עול התורה.

[147] Alami lived in the end of the fourteenth and the beginning of the fifteenth century. His אגרת המוסר was written in the beginning of the fifteenth century and was edited by Jellinek.

[148] . . . אלה אשר אנחנו גרים בארצותם מביאים המעשרות ונותנים מנות ללומדיהם ומפילים להם בנעימים מנוחתם . . . ובזה נתוסדה דתם . . . להנחיל כבוד בבתי תפלתם. ועשירי היהודים ורועיהם מנהלים חכמיהם בלחם צר ומים לחץ לבשתם

Rashi and Maimonides were undoubtedly the greatest minds the Jews produced after the close of the Talmud. These two men entertained different conceptions of Judaism. Rashi, who was responsible for the institution of the Rabbinate, maintained that the leadership of the Jews should be vested in a man of spiritual authority, the Rabbi, while Maimonides felt it should be vested in the Exilarch, the political, social leader. In this Maimonides proved himself a pioneer of Jewish nationalism.

Rashi was of the opinion that the Jews, after the destruction of the Second Temple, ceased to be a political nation and became mostly a religious people, כנסת ישראל, and hence should be ruled not by civil but by religious leaders. He urged, however, that the religious leader should not only rule the people but should be one who understands their needs and is able to guide them. He believed that the leaders may even amend the laws in order to meet the needs of the times. Rashi fearlessly amended many talmudic laws so as to bring religion in harmony with life. According to talmudic law Jews were forbidden not only to drink but even to derive any benefit from wine handled by gentiles, which is called יין נסך. In Champagne, in the time of Rashi, the Jews were engaged for the most part in the making of wine. They employed gentiles in their vineyards. The talmudic law would have resulted in great loss to the Jews since they could not sell the wine lest they derive some benefit from such sale. Rashi maintained that the law set forth by the Talmud did not apply to Christians, but to idolaters. The Christians were not

ולחרפתם, הם אוכלים כבני מלכים ולובשים כנסיכים, והחכמים אוכלי לחם העצבים בדאבון נפשות . . . והיא הסבה להשפיל כבוד התורה . . . כי הרועים והגדולים לא יקוה . . . וכראות המון העם חרפת החכמים דלותם ונבלתם ויבחרו להכניס בניהם בגרועה שבאומנתם, מהכניסם בברית התורה לראות ברעתם. See also *Responsa*, השרים והסגנים העשירים והמיוחסים . . . שבכל דור ודור בני פריצי, ריב"ש, 373, עמנו ינשאו יצאו נצבים שונאים את הרבנות.

idolaters, hence the Jews might employ Christians to work for them in their vineyards and could sell their wine.[149] Rashi showed similar liberality in other laws. He permitted Jews, on the second day of the holydays, to use the fish and fruit given them by their Christian friends on the first day of the holydays.[150]

Although Maimonides was of the opinion that secular men should be leaders, he maintained that only those who possessed Jewish learning should be such secular leaders. In general, as we know, he despised ignorance.

Rashi, with his commentaries on the Bible and the Talmud and the organization of the Rabbinate, was responsible for Jewish culture throughout the ages. His influence was greatly felt in central and eastern Europe, where literature was enriched by many rabbinical books. His influence, however, was not so strongly felt in Africa and the Orient, and this may be the reason why scholarship and Jewish education have remained at very low standards While it is true that the political and economic conditions of the Jews in the Islamic countries were very deplorable, in Europe they were no better. Thousands of Jews were slaughtered during the Crusades; the Jewish population of Germany was almost annihilated during the Black Plague and the Jews always suffered under the different kings and dukes; their condition was no better in Poland.

[149] Comp. Tos. 'Ab. Zarah 57b, פירשו רשב"ם והריב"ן בשם רש"י שכתב בתשובות הגאונים כי בזמן הזה אין איסור הנאה במגע (נכרי) נוים ביין. See also Mordecai to 'Ab. Zarah, ... אביך רש"י ... פסקו דגוים בזמן הזה כתינוק בן יומו דתינוק בן יומו אין עושה יין נסך ליאסר אף בשתיה. Comp., however, Tosefot, 'Ab. Zarah 57b.

[150] See Rashi, Beza 24b. ולא זכיתי לשאול את פי ר' יעקב בדבר זה כי היו נוהגים בו היתר במקומינו והיה לי דבר פשוט ולאחר פטירתו של ר' שמעתי את ר' יצחק הלוי שהוא אוסר עד ליל מוצאי יום טוב. על חיה ועוף הנצודים, 11 ,תשובות חכמי צרפת ולות'. Comp. also ביו"ט ראשון ואכלו ביו"ט שני ... שמעתי מפי ר' יצחק לוי שאוסר ואני מקודם ששמעתי ראיתי שהיו נוהג' בהן היתר זגם מיום הבנותי בדברי תלמוד לבי נוטה אחרי המתירים.

Nevertheless rabbinic literature and education were of high order. At the time when Christians were illiterate and only a small percentage of the clergy was able to read the Bible, most of the Jews could read the Bible, the Talmud and the prayers. Even after the most terrible pogroms in the Ukraine during the years 1648–50, when almost entire Jewish populations were wiped out, Jewish education went on.

Jewish education and learning in the Ashkenazic countries is due to Rashi's commentaries on the Bible and the Talmud. His commentary on the Pentateuch became an integral part of it; Jewish boys from the age of seven studied *Humash* (Pentateuch) together with the commentary. The organization of the Rabbinate, which was due to Rashi's influence, is even a greater factor in the high standard of religious education and knowledge of the Pentateuch and the Talmud among the Franco-German Jews, since at the head of each community was a scholar (Rabbi) who strove to educate the people in religion and instruct them in the knowledge of Hebrew lore and literature, and who endeavored to establish schools of instruction for the Jewish youth. In the countries under Spanish influence, on the other hand, the heads of the Jewish communities were either lay leaders or Rabbis appointed by the government, many of whom were themselves unable to read the Hebrew Scriptures.[151] Hence men who were lacking in erudition did not appreciate the need for Jewish education, which consequently was neglected. Therefore we find no scholars of importance hailing from the Orient and Africa to compare with those from Germany, Poland or the later period of Russia.

[151] בארצנו יש רבנים מצד המלכות ואינן יודעים לקרות כהונן. שו"ת הרשב"א, תע"ה

VI

The Opposition to the Spiritual Leaders Appointed by the Government

In the chapter "France and Germany," I pointed out that *Semikah* — ordination — was in vogue in the Franco-German communities. The authority of the rabbi was derived through an unbroken chain of tradition from Hai Gaon of the Babylonian academy, who, in turn, derived his authority through an unbroken chain from Moses. The rabbis had twofold authority over the members of the community, first, by tradition which hailed back to Moses and, second, by the election of the community. The authority of the community over the individual members dates back to the early period when the Jews settled in France, where they modeled their original community life on the communities in Palestine, whence they originally came.[1] Since in the Franco-German communities the rabbi had to be either appointed or elected by the members of the community, every individual of the community had to obey the decision of the rabbi, and could not contest it by appealing to another *Bet Din* (Court) of another city, even though the latter might have greater scholars.[2] His authority, however, did not reach beyond his own community unless it involved a question of religion. Furthermore, I pointed out that a *Takkanah* was ordained under the pain of excommunication (*Herem*), that no Jew should accept a position

[1] *JQR*, XXXI, 25–32. Rashi was the founder of the Rabbinate in western and central Europe. He was of the opinion that the scholars should be the leaders of the community rather than the Parnasim.

[2] Ibid., pp. 43–4.

in a community, either spiritual or secular, from the government.[3] This ordinance applied not only to those who were appointed by the government, but also to those who were elected by the community with the approval of the government.[4] To this *Takkanah*, French and German Jewry adhered strictly; they always chose their leaders without interference from the government.

1.

The Controversy Between Isaac bar Sheshet and Meir ha-Levi

From a *Responsum* written by Rabbi Isaac, the son of Sheshet,[5] we learn of a struggle between two scholars for the rabbinical position in France, Johanan the son of Mattithiah, the Chief Rabbi of France, and Joshua, the disciple of the Chief Rabbi. When Mattithiah died his son Johanan succeeded him with the approval of the community and the sanction of the government. Joshua opposed Johanan's succession to the Chief Rabbinate of France.[6] Isaac bar Sheshet of Spain (who later lived as a refugee in Algiers) sided with Johanan, while Meir ha-Levi of Vienna sided with Joshua.[7] All Jewish scholars who wrote on this controversy were of the opinion that Johanan was the proper person for the position of the rabbinate after his father's death, and they accused Joshua of inciting dissension in

[3] See *Responsa*, R. Meir of Rothenburg, זרנו ונדינו והחרמנו שלא יהא אדם רשאי ליטול שררה על חבירו על ידי מלך שר ושופט . . . לא בדברי הבאי ולא בדברי שמים.

[4] See *Responsa* of R. Meir of Rothenburg, 137.

[5] *Rivash*, 271. Comp. also שו"ת הריבש החדשות, י"א.

[6] Ibid., 268–72.

[7] Ibid.

the Jewish community of France.[8] It seems to me, however, that the scholars who dealt with this period have relied solely on the *Responsum* of Isaac bar Sheshet and did not do any research into the sources of the history of the period, and therefore failed to understand the underlying causes which brought about this controversy. Not only did they misjudge Rabbi Joshua, but they misconstrued an important period in Jewish history.

The Jews were expelled from France in 1360. A little later, however, King Charles gave the Jews permission to return. The French government appointed Mattithiah to be the Chief Rabbi in this community. The spiritual intellectual life of French Jewry was in a state of decay due to the different persecutions which they suffered after the Black Plague. Mattithiah as Chief Rabbi brought about order in the life of the Jews. He re-established the *Yeshibot*, the academies of higher learning, after they had ceased to exist in France owing to the various expulsions. After the death of Mattithiah, his son, Johanan, succeeded him to the Rabbinate with the approval of the government.[9]

[8] See Weiss, דור דור ודורשיו, V, pp. 170–71. אמנם רבי ישעיה חשב לעשות לרבי יוחנן נבלה גדולה אשר כל איש אמת ידבר עליו משפט מרשיע, . . . ובכלל הנזרה להסיר את רבי יוחנן משררתו אף שהיא מורשה לו מאביו ונתונה היא בידו מאת קהל עדתו ומקומת מטעם המלך האין זה עול וחמס אשר אין איש אשר רוח אמת בו יוכל לצדקם . . . ובאמת כבר נתנו בו (מאיר הלוי) תפלה על אדות כל אלה חכמי ספרד הגדולים — הריב"ש ורבי חסדאי קרשקש — אשר זה הלוי לא הגיע לקרסולם בתורה ובחכמה, הם קראו אחריו מלא על אשר נטל השררה לנזור בארץ לא לו בלי רשות קהלות המלכות ההיא'. Comp. also Graetz (in Hebrew), VI, 38–9. ויהי ר' יוחנן רועה עדתו בשלום ומישור . . . והנה פתאום נהדף מגדולתו כי אחד מאלה שהיו מתלמידי אביו . . . והוא היה עוין את ר' יוחנן . . . הוא חשב מחשבות להדיח את ר' יוחנן מן הרבנות . . . גם בין בני הקהלות בצרפת נמצאו אנשים חשובים אשר היה רע עליהם . . . ויזעף לבם מאד גם על הרב הזקן ר' מאיר הלוי.

[9] See *Rivash*, 271, . . . ונם המלך שמו אדון עליהם בגללו היה להם שלום . . . מנו תחתיו בנו ר' יוחנן . . . וגם כי אביו בעודו בחיים וכל ימי חיו נהג רבנותו . . . ודן את הדין בכל המלכות ההוא מטעם המלך והקהלות חיותו סמך אותו ברב . . . שקבלוהו עליהם.

Joshua, the disciple of the late Chief Rabbi, opposed Johanan's succeeding his father, apparently on the grounds that an old *Takkanah* had been ordained which held that no Jew could accept a religious position in the community with the sanction of the government. Johanan appealed for support to two great Jewish scholars of the time in Spain, Hasdai Crescas the well-known philosopher, and Isaac the son of Sheshet, one of the greatest rabbinical scholars of that period. Both of them vigorously supported Johanan. On the other hand, Meir ha-Levi of Vienna upheld Joshua in his opposition to Johanan. Meir ha-Levi gave *Semikah* to Joshua, and issued a decree that no scholar in France should have authority to establish *Yeshibot* and to perform divorce ceremonies without first obtaining permission from Rabbi Joshua.[10]

Isaac bar Sheshet supported Johanan in his contention for the rabbinate of France for a number of reasons. One of these was hereditary right, since Johanan's father had held the position of the rabbinate by the will of the community and the approval of the government.[11] Again, since Johanan had already been appointed and was occupying the position of rabbi, it was Isaac bar Sheshet's opinion that it would be against the principles of the Jewish spirit to remove Johanan and appoint another in his place.[12] Furthermore, Johanan was appointed to his position by the will of the community of France. As a rabbi he really could not be removed.[13] Finally, he was appointed with the sanction of the government, whose decree had to be upheld.

[10] Ibid.

[11] ראשונה . . . היה ראוי למנות להיות נוהג בשררה ההיא מהר' יוחנן לפי שאביו מהר"ר מתתיה נ"ע נהג בה כבר ברצון הקהלות ובהורמנא דמלכא . . . ומן הדין בנו קם תחתיו.

[12] שנית . . . כיון שכבר היה נוהג בשררה ההיא שקבלה מעצמו והחזיק בה זכה בה

[13] שלישית, שכבר נתמנה . . . בהסכמת קהלות צרפת וקבלוהו עליהם ומעתה אין מורידין אותו דמעלין בקדש ואין מורידין.

Moreover, if the sanction of the government alone had not been sufficient to give Johanan the right to the rabbinate of France, his election by the community firmly established this right.[14]

Before Isaac bar Sheshet set forth these reasons in favor of Johanan, he investigated the principle of *Semikah* as practiced in France and Germany, whereby the scholars received *Semikah* and in turn transmitted it to their disciples. He came to the conclusion that *Semikah*, which was a custom in France, had no basis in the Talmud, and, hence, had no validity.[15] He opposed the point of view of these scholars who were of the opinion that those who received *Semikah* from the Patriarch or the Exilarch had the right to transmit it to their disciples, in which way it could be handed down forever.[16] He tried to prove instead from the Talmud that *Semikah* had to be obtained directly from the Patriarch or the Exilarch, and that it could not be transmitted. Hence, he came to the conclusion that with the disappearance of the Patriarchate and the Exilarchate, *Semikah* ceased to exist in Israel.[17] Thus *Semikah* as practiced among the Jews of France and Germany, according to Isaac bar Sheshet, had no validity.

However, Isaac bar Sheshet's arguments in support of Johanan are all founded on a faulty hypothesis. Furthermore, his main contention in favor of Johanan, that the government sanctioned his appointment to the rabbinate,

[14] רביעית, שנתמנה בהורמנא דמלכא ודינא דמלכותא דינא . . . ר' יוחנן נתמנה מן המלך ברצון הקהלות.

[15] תחלת כל דבר צריך לבאר מה זו סמיכה שנהגו בצרפת ואשכנז שהרבנים נסמכים והם סומכים אחרים . . . ועתה כבר בטלה הסמיכה . . . נאמר שהסמיכה זו אשר נהגו בצרפת ואשכנז יהיה נטילת רשות . . . גם זה אי אפשר.

[16] וכי תימא אין צריך ליטול רשות מריש גלותא עצמו אלא כיון שנטל אחד רשות מריש גלותא יכול הנוטל רשות ליתן רשות לאחר וכן אחר לאחר לעולם . . . וכן הוכיחו מכאן קצת מן החכמים. Comp. Tosefot to Sanh. 5a, הא ליתא דמי שיש לו רשות יכול ליתן רשות.

[17] Ibid.

really served to invalidate his arguments in support of Johanan. We mentioned before that there was an old ordinance in France and Germany that no Jew, under the pain of *Herem* (excommunication), could accept any position in a community, either religious or secular, from the government. Hence, Johanan, by accepting the rabbinate from the government, transgressed the ordinance, and thus became unfit to fill such a position, even if the communities desired him for a rabbi.

Isaac bar Sheshet was also mistaken in his view that Johanan was entitled to the rabbinate because his father was a rabbi. There is no hereditary claim to the rabbinate. Furthermore, Johanan's father, Mattithiah, who was Chief Rabbi of France, had obtained his appointment from the government, and therefore was himself a transgressor against the Jewish tradition. So long as Mattithiah was alive the Jews overlooked the fact that he had been appointed by the government. Since he was the most influential man in France, he enjoyed royal favor. He was exempted from wearing the badge. He was also instrumental in the organization of the Jewish communities. But, after he died, many Jews objected to the appointment of his son as his successor.

Isaac bar Sheshet's contention that *Semikah* could not be transmitted, but must be obtained directly from the Patriarch or the Exilarch, was based on a faulty reading. From the Talmud we learn that Rabba bar Huna רבה בר רב הונא had once defied the authority of the Exilarch by saying that his authorization did not come from the Exilarch, but from his father, who received it from Rab, who in turn, received his authority from Ḥiyya, who obtained his authorization from Rabbi (R. Judah the Prince).[18]

[18] Sanh. 5a, רבה בר רב הונא כי הוה מינצי בהדי דבי ריש גלותא אמר לאו מינייכו נקיטנא רשותא נקיטנא רשותא מאבא מרי ואבא מרי מרב ורב מרבי חייא ורבי חייא מרבי.

Isaac bar Sheshet quotes this story from the Talmud, but in his text the name of the scholar who defied the Exilarch was Rabba bar bar Ḥana רבה בר בר חנא instead of Rabba bar Huna רבה בר רב הונא, which is found in all the editions of the Talmud. According to Isaac bar Sheshet, the expression נקיטנא רשותא מאבא מרי does not mean that Rabba received his authorization from his father, and thus his authorization came not directly from the Patriarch — Rabbi; but Rabba bar bar Ḥana said that he asked his own father to intercede for him with Rab to obtain authorization for him from Rabbi. To do so, Rab applied to Ḥiyya, who obtained authorization for Rabba from Rabbi. And thus, according to Isaac bar Sheshet, Rabba received his authorization directly from Rabbi — Judah the Patriarch. To support his argument that Rabba bar bar Ḥana received his authorization direct from Rabbi, Isaac bar Sheshet quotes another passage from the Talmud, wherein it is stated that when Rabba bar bar Ḥana left Palestine for Babylon, Ḥiyya said to Rabbi, "My nephew goes to Babylon," and Rabbi, upon the request of Ḥiyya, gave the necessary authorization to Rabba bar Ḥana.[19] Thus, Isaac bar Sheshet sought to prove that Rabba bar bar Ḥana received authorization direct from the Patriarch. Hence he argued that *Semikah* could not be transmitted, as some of the scholars in France maintained. However, Isaac bar Sheshet's arguments from the Talmud, that *Semikah* could not be transmitted and must be directly obtained from the Patriarch or the Exilarch, were not well founded. It is apparent that he based his arguments on a faulty reading of the Talmud. The scholar who defied the Exilarch was not Rabba bar bar Ḥana רבה בר בר חנא, as Isaac bar Sheshet stated in his *Responsum*, but *Rabba the son of Huna* רבה בר רב הונא, and the person who received the

[19] Ibid. כי הוה נחית רבה בר חנא לבבל אמר ליה רבי חייא לרבי בן אחי יורד לבבל.

authorization from Rabbi upon the request of his uncle was Rabba bar Ḥana רבה בר חנא, *two entirely different scholars*. Hence, Isaac bar Sheshet's arguments for his opinion that *Semikah* could not be transmitted were baseless. It is indeed surprising that a scholar like Isaac bar Sheshet did not notice that the reading (if he had such a reading in his copy of the Talmud) could not be Rabba bar bar Ḥana רבה בר בר חנא but Rabba bar bar Huna רבה בר בר הונה.[20]

I venture to say that Isaac bar Sheshet in supporting Johanan so strongly for the rabbinical position in France, was really defending the ideology of Spanish Jewry. It is known that the government appointed Rabbis in Spain, but not in France, where, as we have repeatedly stated, the Jews did not allow the government to interfere in their spiritual life. Isaac bar Sheshet, himself, obtained his appointment to the rabbinate with the help of the government when he went to Algiers after the massacres in the southern part of Spain. He established himself as a rabbi in Algiers with the aid of the government.[21] Indeed many Jews in the community opposed his holding the position. As a matter of fact, he was very much opposed by a younger scholar, Simon Duran, also one of the Spanish refugees in Algiers, for obtaining the rabbinate with the help of the government.[22] After the death of Isaac bar Sheshet, his opponent, Simon Duran, was elected to the rabbinate in his place. The leaders of the community, however, made a condition that his election to the rabbinate would be void if he should seek the consent of the government.[23] From this

[20] We know that Isaac bar Sheshet had later obtained the rabbinate with the help of the government.

[21] *Tashbez*, I, 158. כשהפקיד רבי שאול הכהן נ"ע את הרב ר' יצחק בדיינות הקהל על פי ציווי מאמר המלך.

[22] See ibid., I, 158–62.

[23] Ibid. שאודה להם שלא אבקש מהמלך ושריו מאמר ציווי נגידות עליהם.

we can readily see that many Jews in Algiers were against the custom which prevailed in Spain, whereby the government appointed the Jewish spiritual leaders. Isaac bar Sheshet, in upholding Johanan, not only opposed Franco-German ideology, but tried to justify the ideology of Spanish Jewry, under which a rabbi appointed by the government was considered the lawful Jewish spiritual leader.

Isaac bar Sheshet reproached Meir ha-Levi of Vienna for giving *Semikah* to Joshua, and particularly for decreeing that no man could accept the rabbinate in France unless he received his authorization from Joshua. Only those who were ordained by Rabbi Joshua had the right to establish *Yeshibot* and to perform religious ceremonies such as granting divorces.[24] Isaac bar Sheshet also charged Meir ha-Levi with interfering in the life of the Jewish communities in other countries, since he resided in Vienna and had no authority over the Jews in France.[25]

Isaac bar Sheshet evidently did not comprehend the ideology of French Jewry. The fact that Johanan's appointment to the rabbinate came through the government voided his rabbinical authorization, although he was ordained by his father. Isaac bar Sheshet's contention that Meir ha-Levi had no right to interfere in the affairs of the Jews of France betrays his lack of comprehension of the communal life of Franco-German Jewry. While it is true that the rabbis had authority only over the members of their own communities, it did not reach beyond their own communities. However, when the question of religion was involved, there were no political boundaries. As a matter of fact, Rabbenu Tam had threatened many times to excom-

[24] *Rivash*, 271, שגזר מהר"ם הלוי שלא יתפוש שום רב ישיבה בצרפת . . . ושום רב אשר יקום לתפוש ישיבה בצרפת בלי רשות הר"ר ישעיה והיו כל הניטין והחליצות שיעשו פסולים.

[25] Ibid. ליטול שררה ולנזור בארץ לא לו.

municate a rabbi of another community for misinterpreting the Jewish law.[26] Therefore, Meir ha-Levi, who was one of the oldest and most recognized rabbis in the Franco-German community,[27] thought it was his duty to intervene in the spiritual life of the Jews of France, since a question of religion was involved.[28] Mattithiah and his son transgressed an old ordinance of the rabbis by accepting the position of the rabbinate from the government.

2.

The Method of *Semikah* and Its Development

Up to the time of Meir ha-Levi, the ceremony of ordination was very simple. The teacher ordained his disciple by conferring on him the title rabbi. However, owing to the wandering of the Jews from place to place seeking escape from persecution, as a result of which many communities were established from the Rhone to the Danube, a change in the *Semikah* became a necessity. Many Jewish students who migrated from one community to another maintained that they were fully ordained rabbis. By the old method of ordination this could not be fully verified. Because of the fact, also, that Mattithiah accepted the rabbinate from the government, and after his death his son Johanan succeeded him with the consent of the government, R. Meir ha-Levi was compelled to bring about a radical change in the custom of ordination. Instead of being given orally,

[26] See *Responsa* of R. Tam, 46, ושמתא יהיו כל השומעין לך אם אתה התרת דברים הללו שכתבתי.

[27] See *Responsa* of Israel Isserlin, (תרומת הדשן פסקים וכתבים ס'נ) מהר' מאיר אשר חוצאותיו מארץ רינוס וידע כל שרשי דתיה ומנהגיה.

[28] Johanan accepted the rabbinate from the government, thus transgressing an old rabbinical *Takkanah* that no Jew should accept a position from the government.

as before, it was to be in a written form — what is known now as a diploma.[29]

I believe that we are now able to give an historical survey of the method of *Semikah* — ordination. In ancient times *Semikah* was performed by laying the hands upon the recipient. Therefore, when God told Moses that he should delegate his authority to Joshua, Moses laid his hands upon Joshua.[30] With this act he delegated all of his spiritual powers to Joshua.[31] Laying the hands upon a person, or even upon an animal, was considered in ancient times the transference of good deeds or iniquities. From the Bible we learn that one who brought a sin offering was required to lay hands upon it.[32] Thus, one transferred all one's sins to the animal that was to be sacrificed to God. Also, by bringing a peace offering to God, the owner was supposed to lay hands upon the animal to be sacrificed.[33] On the Day of Atonement when the goat was sent to the Azazel, according to the Bible, the priest had to lay hands upon the goat. "And Aaron shall lay both his hands upon the head of the live goat, and confess over him all the iniquities of the children of Israel, and all their transgressions, even all their sins; and he shall put them upon the head of the goat, and shall send him away by the hand of an appointed man into the wilderness."[34] By laying the hands upon the goat the an-

[29] We must assume that it was in written form, since Meir ha-Levi lived in Vienna and he gave the authority to Rabbi Joshua, who went to Paris to assume his rabbinical function. Comp., however, ספר השטרות, p. 132.

[30] Num. 18–22. ויסמוך את ידו עליו.

[31] Compare also Num. 8, when God said to Moses that he should take the Levites as servants to God. He told Moses that the Israelites should lay hands upon the Levites. "And the children of Israel shall lay their hands upon the Levites . . . Thus shalt thou separate the Levites from among the children of Israel; and the Levites shall be Mine."

[32] Lev. 4.4–33.

[33] Similarly, by bringing a burnt offering, the owner was supposed to lay hands upon the animal to be sacrificed (Lev. 3).

[34] Ibid. 16.

cient Jews believed that they had transferred all their sins to the animal which was sent into the wilderness.

The ceremony of ordination by laying the hands upon the candidate was performed by three men of the Sanhedrin,[35] and was practiced among the Jews up to the time of the collapse of Bar Kokba's revolt. Among the many decrees issued by Hadrian against the Jews, was one against *Semikah*. The scholar who gave the ordination, as well as the candidate who received it, was threatened with death, and even the community where the ceremony was to take place was threatened with destruction.[36] In a story told in the Talmud, Rabbi Judah, the son of Baba, in defiance of the decree of Hadrian, assembled five (or six) of his disciples and ordained them. For this act he was cruelly tortured to death by the Romans.[37] During the Hadrianic persecutions the Jews could not perform the ceremony of *Semikah* by laying the hands upon the candidate in the presence of three members of the Sanhedrin, since it was prohibited by penalty of death. Only a saintly man like Judah the son of Baba was ready to sacrifice his life for Jewish tradition. In this period of persecution the Jews adopted a simpler method of ordination. The teacher ordained his disciple by conferring upon him the title of Rabbi. With this conjecture we may understand a rather obscure statement in the Talmud. According to the tractate Sanhedrin, Rabbi Akiba gave *Semikah* to Rabbi Meir, but it was not recognized until the latter was ordained by Rabbi Judah the son of Baba. Rabbi Akiba, who introduced many changes in Jewish Law. brought also a change in the custom of *Semikah*. He was of the opinion that conferring the title of Rabbi was suffi-

[35] Comp. Tosefto Sanh. 1, סמיכה בשלשה וסמיכת זקנים בשלשה; see also Babli, ibid., 13b.

[36] Ibid. 14a, שפעם אחת נזרה המלכות נזרה על ישראל שכל הסומך יהרג וכל הנסמך יהרג ועיר שסומכין בה תיחרב.

[37] Ibid.

cient, without laying the hands upon the candidate, since it was fraught with peril for both the master and the disciple. This innovation he introduced by conferring upon his disciple Meir the title of Rabbi. However, the people were not ready to accept such an innovation.[38] It is possible that Meir, being a strong traditionalist,[39] did not consider himself ordained until his other teacher ordained him by actually laying hands upon him.

The ceremony of laying hands upon the candidate for ordination was never eliminated by legal procedure. Political circumstances, however, forced the scholars to adopt the simpler method of merely conferring the title of Rabbi. Therefore, we may readily understand why an Amora of the fifth century had to inquire if ordination must be performed by laying the hands upon the candidate or by conferring the title of Rabbi. The answer that was given was that giving the title Rabbi was sufficient.[40]

The method of ordination by conferring the title Rabbi upon one's disciple was practiced up to the end of the fourteenth century, when a change came about owing to communal and religious forces. A new procedure was introduced by which the recipient of ordination had to obtain a written statement that he was ordained by a well-known and recognized scholar. *Semikah* was practiced in Palestine, and later in the Franco-German communities, but not in Babylon. Since the Franco-German Jewry originally hailed from Palestine, they continued the custom of *Semikah* which was in vogue in Palestine.[41] *Semikah* never ceased in Israel.

[38] See ibid. אמר רבה בר חנה אמר ר' יוחנן כל האומר ד' מאיר לא סמכו ר' עקיבא אינו אלא טועה סמכיה ר' עקיבא ולא קיבלוה סמכוה ר' יהודה בן בבא וקבלוה.

[39] ר' מאיר כבית שמאי. See Yer. Sheb. 33c. The reading in the Talmud, Sanh. 14a, might have been ולא קבל.

[40] Sanh. 13b. אמר ליה רב אחא בריה דרב' לרב אשי בידא ממש סמכינן ליה הדא אמרה שממנין זקנים בפה. See Yer. Hor. א"ל סמכינן ליה בשמא קרי ליה רבי.

[41] See S. Zeitlin, "Rashi and the Rabbinate," *JQR*, XXXI, pp. 56–8.

From the early days of the Second Commonwealth it has been an unbroken chain down to our own days. In Spain, however, *Semikah* was not known, owing to the fact that most of the Spanish Jews hailed from Babylon where *Semikah* was not practiced. Hence, in Spain some Rabbis were appointed by the government, while in France the first transgressor who accepted a position from the government was Mattithiah.

Isaac Abrabanel tells us that when he arrived in Italy he was amazed at the custom of ordination as practiced by the German Jews settled in Italy. He felt that they imitated the Christians, who conferred a diploma upon a person to show that he was a doctor.[42] However, Isaac Abrabanel, being a Spaniard, was unaware of the custom of *Semikah* which was in vogue among Franco-German Jews for centuries, and hence he was mistaken in his view that *Semikah* had been adopted from the Christians.

[42] וסתם חבר הוא חכם . . . כי אלו השמות שראוי שיקראו בין חכמי ישראל בגלות לא רב ולא רבן שהם השמות הממונים לסמוכים לפי שאין סמיכה בחוץ-לארץ . . . וכן היה המנהג בכל ספרד בהיות אנשי הגולה שמה על תלם לא היה ביניהם סמיכה לשום אדם, האמנם אחרי בואי באיטאליאה מצאתי שנתפשט המנהג לסמוך אלו לאלו וראיתי התחלתו בין האשכנזים כלם סומכים ונסמכים ורבנים לא ידעתי מאין בא להם ההתרה זה אם לא שקנאו מדרכי הגוים העושים דקטורי ויעשו גם הם. (נחלת אבות, על פרקי אבות פ' ו' מ' ב', ed. Venice, p. 191b).

VII

Saadia Gaon — Champion for Jewish Unity under Religious Leadership

Saadia Gaon, one of the most colorful personalities in Jewish history, was the author of the first systematic book on Jewish theology written by a Jew, *Book of Philosophic Doctrines and Religious Beliefs*. He was likewise a grammarian par excellence and lexicographer, the author of the book, *Agron*. He was himself a poet and compiled a book on liturgy. He also translated the Bible into Arabic and wrote a commentary on it as well. He was a great Halakist. He occupied himself with the question of the calendar and chronology. Saadia held one of the most exalted positions among the Jews of that time — the Gaonate of Sura. Besides his being a literary man of note he was a great polemic. He fought with great energy against the Karaites. He wrote much in refutation of this sect. He engaged in a literary controversy with a Palestinian scholar by the name of Ben Meir. He also engaged in a bitter combat with the Exilarch David ben Zakkai.

His controversies with the Karaites are well-known. The Karaites were members of a sect which denied the tradition and authority of the Talmud. They fought Rabbinic Judaism. Such a schism was not new in Jewish history. The Karaites were dissenters from the Jewish people. Such a phenomenon had happened among the Jewish people before. After the death of King Solomon a delegation of the twelve tribes who dwelled in the North came to his son, Rehoboam, asking him to relieve them from the

heavy taxation which his father had imposed upon them. The elderly people, from whom Rehoboam sought advice, told him he should be lenient and promise to meet their demands. However, he followed the advice of the younger people who told him that no compromise should be made with the other tribes.[1] We know what the consequences were. The Jewish people were divided into two factions. There was a continuation of civil war between them. They became easy prey for the Assyrian and Babylonian Empires. First, the Northern Kingdom was destroyed by the Assyrians and later, the Southern Kingdom — Judea was annihilated by the Babylonians. If this dissension had not taken place, the history of the Jewish people would have been entirely different.

After the Restoration, a schism broke out between the Samaritans and the Jews. There are always people who for some reason or other dissent from the established state or religion.

The other controversy Saadia had with the Exilarch; it is likewise well-known. Abraham Ibn Daud tells us that the cause of the rupture between these two men was a case of litigation by heirs to a fortune.[2] However, this was only the apparent cause — *casus belli.* The underlying motive of this clash between Saadia and the Exilarch was more far-reaching, as I have already pointed out in my essay, "Rashi and the Rabbinate."[3] It was a struggle between the secular and religious forces for leadership.

The controversy of Saadia with the Palestinian scholar, Ben Meir, became known only about fifty years ago. Gratz did not know of this controversy and did not mention the name Ben Meir at all in his history. It was only

[1] Kings, 12.

[2] ספר הקבלה.

[3] *JQR*, XXXI, 1940. Comp. also H. Malter, *Saadia Gaon, His Life and Works*, Philadelphia, 1921.

because of the discovery of the Genizah Fragments that we became aware of the clash between Saadia and Ben Meir.[4] The story of the clash may be briefly constructed from the Genizah.

1.

The Story of the Clash between Saadia and Ben Meir

In the year 4681 A. M. — 921 C. E., Ben Meir declared that the months of *Heshvan* and *Kislev* of the year 4682 — 921, should be made deficient, i. e., that these two months should consist of only 29 days each. He further declared that Passover of that year (4682 — 922) should be on Sunday.[5] When this declaration of Ben Meir became known in the Academies of Babylonia, the scholars sent letters to him, asking him to retract his statements. According to their point of view the months of *Heshvan* and *Kislev* should both be full months, consisting of 30 days each, and hence Passover of that year should be on Tuesday.[6] Ben Meir not only did not retract, but sent out epistles to the Jews that they should celebrate Passover according to his calculation on Sunday. A schism developed among the Jews. Many Jews celebrated the Passover on Sunday; others celebrated it on Tuesday.[7]

[4] See S. Schechter, *Saadyana*, Cambridge, 1903; Neubauer, *JQR*, IX, 1897; Poznanski, ibid., X, 1898; idem., ibid. Ben Meir and the Origin of the Jewish Calendar, pp. 152–161; A. Epstein, *REJ*, "La querelle au sujet du calendrier entre ben Meir et les academies babyloniennes," *REJ* 1901, pp. 173–210; idem., המחלוקת בין בן מאיר וישיבת בבל, הגרון, ה' Harkavy, H. Bornstein, מחלקת רב סעדיה גאון ובן מאיר בקביעת שנות ד"א תרפ"ב–תרפ"ד, ספר היובל לכבוד נחום סאקאלאוו, תרס"ד.

[5] Comp. literature quoted above, מרחשון וכסליו חסרים . . . . כדת קדמונים הפסח באחד בשבת.

[6] והכריזו מרחשון וכסלו שלמין והפסח בשלישי בשבת (*JQR*, XIV). כל האלופים... וכל החכמים ותלמידיהם שוין בדבר הזה, כי המה שלמין והפסח בשלישי (*JQR*, IX).

[7] See also the statement of Sahal ben Macliaḥ quoted by Pinsker, ולפני מזה בימי הפיתומי אשר פתה אנשים ונחלקו במועדים ויעשו אנשי ארץ ישראל

On Monday, the 28th of Elul of that year, the Babylonian scholars convened and appealed to Ben Meir that he should retract his pronouncement on the calendar.[8] They affirmed that the coming *Rosh ha-Shanah* should be on Thursday and not on Tuesday as he proclaimed. They impelled him to alter his point of view, saying that if the Jews had unfortunately sinned in the month of Nisan, they profaned the Passover; they told him that he should at least not cause them to sin in Tishri, that is, the Jews should not profane both *Rosh ha-Shanah* and the Day of Atonement.[9] A schism, however, took place. The Jews of Palestine celebrated *Rosh ha-Shanah* in the year 4683 — 922, on Tuesday, while the Jews of Babylonia celebrated *Rosh ha-Shanah* on Thursday. This controversy between the two schools of Palestine and Babylonia widened with the *Rosh ha-Shanah* of the following year (4684 — 923).

The *Molad* — the birth of the new moon of Tishri of that year — occurred on Saturday, 237 fractions after the noon hour. (The Jewish astronomical hour is divided into 1080 fractions and not into 3600 seconds as the hour is divided today.) Thus, according to the regulations given in the Talmud this *Molad* was considered מולד זקן and therefore *Rosh ha-Shanah* could not be declared on Saturday, but on the following day, Sunday.[10] However, Sunday is a day on which *Rosh ha-Shanah* must not fall.[11] Hence

יום, והבבליים וההולכים אחריהם עשאוהו יום אחר, ואמרו כי אנשי ארץ ישראל חטאו, ואנשי ארץ ישראל אמרו כי הם חטאו, וקללו אלו לאלו, ונדו אלו לאלו ברוב עונות, ויעשו אנשי ארץ ישראל המועד ביום הזה ואנשי בבל עשאוהו ביום מחר, והיו מכזבים אלה לאלה, ויש אנשים משוכני ארץ ישראל שהלכו אחרי הבבליים, ונם השוכנים בארץ שנער הלכו אחרי אנשי ארץ ישראל (ילקוטי קדמוניות p. 36) וישלח את בנו בחדש הרביעי . . . ויעבר קול . . . אות לברית מרחשון וכסליו חסרים.

[8] Op. cit., . . . והמדברים אליו להשיב מרעתו בעשרים באלול נקרא ספריו ויוסיפו עוד וישלחו ספרים שלישית ולא אבה לשמוע.

[9] ואם עשיתם בניסן בשנה אל תעשו בתשרי בזדון.

[10] See R. H. 20b. לא נולד קודם חצות.

[11] לא אדו' ראש.

the *Rosh ha-Shanah* of that year had to be postponed until Monday. Ben Meir, on the other hand, did not consider the *Molad* of Tishri of that year a מולד זקן and hence *Rosh ha-Shanah* should be celebrated on that day, Saturday. According to him if the New Moon became visible 642 fractions (a little over 35 minutes) after the noon hour, only then could the sanctification of the New Moon be postponed to the following day.[12] The *Molad* of that year was only 237 fractions late. This was not sufficient for a postponement. Hence Ben Meir maintained *Rosh ha-Shanah* of that year should not be postponed to Monday, but should be observed on Saturday.

Saadia took over the fight against Ben Meir. Being a skilled polemic he got the upper hand of Ben Meir. This controversy was very furious and assumed alarming proportions. Neither of them hesitated to besmirch the other with abuses. Saadia called Ben Meir "the obscurant," "the accursed one."[13] On the other hand, Ben Meir tried to discredit Saadia by maintaining that his father was in the service of the Mohammedans and had defiled himself by eating abominations.[14] Ben Meir accused Saadia of causing a schism in Israel. He compared Saadia to Jereboam who caused the first schism in Israel.[15]

From the Genizah Fragments we may clearly see that the clash between Saadia and Ben Meir was a question of the calendar; but, according to tradition the calendar was fixed and established by Hillel, the Patriarch in the

[12] רואים אם נשתייר רביע יום חסר אמר'ת חלק' עושין אותו ראש ואם חסר במר'ת דוחין אותו.

[13] "המחשיך". "הממאיר" החזוק בתרמיתו.

[14] סעיד בן אלפיומי וחבריו הזידונים . . . כרגע יאבדו אשר נתברר לפנינו בעדים ברורים . . . שהיה אביו מכה בפטיש בארץ מצרים לעבודה זרה ואכל טרק פינולים.

[15] וירבעם חטא והחטיא את הרבים.

second part of the 4th century.[16] Then, why was there such a controversy between these two scholars?

To give a clear picture of the underlying reasons of this clash a study of the Jewish calendar is indispensable. We must know the development of the Jewish calendar historically as well as from the point of view of Jewish tradition. It is regrettable to note that a history of the Jewish calendar from the early days up to the time of its fixation as it is used in modern days by the Jews has not yet been written.[17]

I shall give here only the barest facts on the development of the Jewish calendar historically as well as traditionally.

2.

The History of the Development of the Jewish Calendar

The calendar which was used by the early Hebrews was undoubtedly a lunar one. This is indicated by the word used for month which is *Ierach* and is derived from *Iorach* which means moon. This calendar was calculated according to the lunar system of the Phoenicians, the neighbors of the Hebrews. The phases of the moon are more easily observed by primitive peoples than are the positions of the stars, and observations connected with the equinoxes and the solstice are still more difficult for them.

[16] See Hai Gaon's statement quoted in the ספר העבור by Abraham Bar Chyiah, the Prince, p. 97, ימי הלל בר' יהודא בשנת תר"ע לשטרות (359 C. E.); comp. also Yer. Suk. 4; ibid. Meg. 1.

[17] There are some books on the calendar, but they deal mostly with the problem of chronology and the astronomical phases of the calendar. To this category belong the works of Ideler, *Handbuch der Chronologie*; F. K. Ginzel, *Handbuch der Mathematischen und Technischen Chronologie;* Mahler, *Handbuch der jüdischen Chronologie.*

There are some good treatises on the calendar in rabbinic literature, but they all deal also with the astronomical and mathematical phases of the calendar.

The word *Ierach* appears in the Bible only a few times. In the first book of Kings, the month *Ierach Ziv*, *Ierach Ethanian* and *Ierach Bul* are mentioned.[18] But the author adds that these are the second month, the seven month and the eighth month respectively.[19] From this we may conclude that *Ziv*, *Ethanian* and *Bul* were no longer familiar to the Jews at the period of the compilation of the book of Kings. However, the calendar which was used in the Bible was not a lunar one but a solar. This may be inferred not only from the fact that the Bible never mentions an intercalated month, but from direct biblical references it is to be noted that the year consisted of twelve months. We are told in the Book of Kings that King Solomon "had twelve officers over all Israel . . . each man had to make provision for a month in the year."[20] Likewise the author of Chronicles tells us that King David had divided the officers that served the King into twelve divisions, which came in and went out month by month throughout all the months of the year.[21] Again, in the story of the flood the Book of Genesis tells us that the flood started on the 27th day of the second month[22] and that the Ark rested on the mountain of Ararat on the 27th day of the seventh month which was 150 days later. This shows that the month had 30 days which proves again that the calendar of the Bible was a solar one.

In a solar calendar, however, the day could not have started from the evening which is according to the current practice in the Jewish calendar; but from the sunrise. This would, on the surface, contradict some passages of the Bible. However, after carefully examining the passages

[18] I Kings, 6.1; 8.2; 6.38.
[19] Ibid.
[20] Ibid. 4.7.
[21] I Chron. 27.1–15.
[22] Gen. 7.11, according to the reading of the Septuagint.

of the Bible, we may see there is no contradiction whatsoever. The verse "There was evening and there was morning the first day,"[23] is not to be interpreted that the day starts with the evening, but rather from the morning, and this passage should be translated accordingly, when the sun set and the sun arose (again) it constituted one day, i. e., from the time of sunrise to sunrise completed one day.[24] As to the statement in Leviticus that the Day of Atonement should be from evening to evening,[25] it is not to be interpreted that the calendar of the Bible starts the day with the evening; but God had ordained that the Jews should fast on the 10th day of the month and the 9th thereof, so that the Fast of Atonement consisted actually of two half parts of two consecutive days.[26] The system of beginning the days with the morning was also practiced by the Babylonians according to Pliny, the Elder.[27]

Seven days constituted a week and was called שבוע.[28] The month was called *Hodesh* and consisted of 30 days. The word *Hodesh* means new referring to the new moon

[23] ויהי ערב ויהי בקר יום אחד.

[24] והארץ היתה תהו ובהו וחשך על-פני תהום . . . ויאמר אלהים יהי אור ויהי אור . . . ויבדל אלהים בין האור ובין החשך ויקרא אלהים לאור יום ולחשך קרא לילה ויהי ערב ויהי בקר יום אחד. This opinion was already held by Rashi's grandson Rabbi Samuel ben Meir (Rashbam). אין כתיב כאן ויהי לילה ויהי יום אלא ויהי ערב שהעריב יום ראשון ושוקע האור, ויהי בקר, בוקרו של לילה שעלה עמוד השחר הרי הושלם יום אחד (פירוש על התורה אשר כתב הרשב'ם, ד' ראזין). Comp. also Abraham Ibn Ezra. והנה כתוב שם פירוש ויהי ערב ויהי בקר והוא אומר כאשר היה בקר יום שני עלה יום אחד שלם כי הלילה הולך אחרי היום וכמעט קרעתי בגדי. אגרת השבת, כרם חמד, 4 . . . .

[25] Lev. 23.32. מערב עד ערב תשבת שבתכם.

[26] Comp. also Yoma 81b: כל האוכל . . . מעלה עליו הכתוב כאלו התענה תשיעי ועשירי.

[27] "The Babylonians count the period between two sunrises" (*Babyloni inter duos solis exortus*) *Natural History* 11, 79. That the day started, in the Pentateuch, from sunrise and not from the evening may be deduced from the fact that in the Pentateuch the day is mentioned first and then the night. Comp. Gen. 8.23: יום ולילה לא ישבתו; Deut. 28.67: . . . מי יתן ערב ובערב . . . בבקר etc.

[28] The word שבוע is derived from the word שבע seven.

although the months were no longer lunar months.[29] It is worthwhile noting that the same inconsistency is found in our present usage when we say the month of July or August, although the word month is from the root *moon* while our calendar is not according to the moon and July and August both have 31 days. A more striking parallel is found in the Russian calendar, a solar one, where the word for moon *mesatz* is also the word for month. Likewise the Greek word Μήνή has the meaning of month and moon.

The year was divided into four divisions according to the season and began with the spring. The first month of the year was *Abiv*. A year consisted of twelve months, 30 days each. Twelve times 30 makes 360, but the year, according to the conception of the ancient Hebrews, consisted of 365 days. They therefore added an extra day every three months — in the first month, the fourth month, the seventh month and the tenth month.[30] The reason for having four days divided in this order is that the Hebrews wanted to have the Holydays on the same day of the week every year, since 364 is divisible by seven.[31] They not only wished the days of the week to be kept intact as they existed in the first week of the creation, but also that the Holydays should fall on the same days of the week as when they were first instituted, that is, the spring Holyday, Passover, should always fall on Sunday and the autumn Holyday, the Feast of Tabernacles, as well. The year was one day too short. To remedy this there was instituted a cycle of 49 years. After seven Sabbatical cycles, i. e., 49 years, on the 50th year, between the Day of Atonement

[29] The word *Hodesh* in the Bible as well as in the Talmud has the connotation of both month and moon.

[30] Jubilees 6.23.

[31] The Egyptians added five days every year at the close of the year after the month of *Mesori*. These five days were called by the Coptics the little month, and by the early Greeks "the intercalated month."

and the Festival of Tabernacles, 49 days were added. These 49 days were called a Jubilee Year. Hence the Jubilee Year was instituted for the purpose of adding the 49 days of which the calendar was by this time short. This Jubilee Year was announced and proclaimed on the Day of Atonement and began the Sunday after the great Fast.[32]

The solar calendar was used by the Hebrews before the Exile. After the return of the Jews from Babylonia they perceived that the calendar was not only a complicated one, requiring the addition of a day every three months and the addition of 49 days every 49 years, but also that this calendar was an imperfect one. Since the year does not have 365 days as was first thought, but 365 days and a quarter, they changed their calendar system from a solar one to a lunar-solar, in which the months were reckoned according to the moon while the years and the festivals according to the sun. This calendar system was indeed in practice among many peoples neighboring the Jews.[33] The Jews also began calling the months by names which they acquired from the Babylonians.[34] The months were no longer called by numbers, but by names, like *Nisan*, *Iyar*, *Sivan* etc. These names of the months appear only in the post-Exilic literature. Whenever the names of the months are given in the books of Esther and Zechariah the authors respectively add; that is, the first month, the ninth, the twelfth, etc.[35] In the same manner as we have noticed before when the month of *Ziv* was given in Kings the author added "that is the second month." As the name *Ziv* was no longer familiar and had to be explained, so in the post-

[32] About the Jubilee Year, see S. Zeitlin, Notes relatives au calendrier juif, *REJ*, 1930. In this essay I endeavored to show that the Jubilee Year disappeared with the change of the calendar.

[33] About the system of the calendar used in Syria and the Hellenistic countries see Ginzel op. cit.

[34] Yer. R. H. 1, שמות החדשים עלו בידם מבבל.

[35] Zech. 1.7; 7.1; Esther 2.16; 3.7.

Exilic period *Nisan* and *Kislev* had not as yet come into usage and had to be explained by the authors by numbers.

In order to adjust the lunar months to the solar year, which was short eleven days and a quarter, the Jews intercalated three months every eight years. Eight times eleven and a quarter gives ninety, the number of days by which the lunar calendar was short of the solar year, hence three months were intercalated consisting of thirty days each.[36] By this method the Jews kept the festivals in the proper season of the year. Passover after the vernal equinox and the Festival of Tabernacles after the autumn equinox. Although the Jews kept intact the seven days of the week as they had been the first week of the Creation they abandoned the idea that the festivals should always fall on the same day of the week. The sages thought it more important to have the festivals in the proper season of the year than on the established days of the week. Furthermore, they arranged the festival of *Shabuot* which, according to the Bible had no fixed date of the month, on the fiftieth day after the first day of Passover without regard to any special day of the week.

The three intercalated months which the Jews added every eight years were arbitrary; that is, they had no fixed years when they intercalated these three months. When the sages saw the need for intercalation they added a month to the year.[37] The Metonic cycle[38] by which seven months were added every nineteeen years was well-known at that

[36] Comp. also Julius Africanus "They (Jews) measure the years by the lunar month of 29½ days as may easily be explained, the annual period according to the sun consisting of 365¼ days, while the lunar period of twelve months has 11¼ days less. For which reason the Greeks (in Syria) and the Jews insert three intercalating months every eight years. For 8 times 11¼ days make three months." *The extant writings of Julius Africanus*, XVIII.

[37] Comp. Sanh. 11a: על ג' דברים מעברין את השנה.

[38] Meton lived in the 5th century B. C. E.

time and the Jews were familiar with it, since it was adopted and practiced in all the neighboring states. However, the Jews did not accept the metonic cycle owing to the fact that according to this cycle the Jews would have to intercalate sometimes a month in the Sabbatical year and sometimes in the post-Sabbatical year. This would have worked a great hardship on the Jews as they were prohibited from working in the fields in the Sabbatical year and could not eat of the new harvest the following year (which is the post-Sabbatical year) until the 16th of Nisan when the sacrifice of the barley was brought. An additional month in these years before Nisan would have brought extra suffering to the Jewish people. The sages took cognizance of this fact and tried to avoid imposing any additional hardship upon the people.[39]

With the change of the calendar from a solar to a lunar-solar the 49 days which were added every 49 years and called *Jubilee Year* automatically disappeared.[40] The sages so interpreted the laws which are in the Bible in reference to the Jubilee Year that they referred only to the period when all the twelve tribes were in the Land of Israel, however not to be applied after the exile of the twelve tribes.

The change of the calendar and the disappearance of the Jubilee Year gave rise to great opposition. Some Jews protested against this innovation. The author of the Book of Jubilees expressed his opposition to the changing of the calendar in the following words: "And command thou the children of Israel that they observe the years according to this reckoning — three hundred and sixty-four days, and (these) will constitute a complete year, and they will not disturb its time from its days and from its feasts; for

[39] See Tosef. Sanh. 2.

[40] See S. Zeitlin op. cit., also idem, Some stages of the Jewish Calendar

everything will fall out in them according to their testimony, and they will not leave out any day nor disturb any feasts . . . And all the children of Israel will forget, and will not find the path of the years, and will forget the new moons, and seasons, and sabbaths, and they will go wrong as to all the order of the years. For I know and from henceforth will I declare it unto thee, and it is not of my own devising; for the book (lieth) written before me, and on the heavenly tablets the division of days is ordained, lest they forget the feasts of the covenant and walk according to the feasts of the Gentiles after their error and after their ignorance. For there will be those who will assuredly make observations of the new moon — how (it) disturbs the seasons and comes in from year to year ten days too soon. For this reason the years will come upon them when they will disturb (the order), and make an abominable (day) the day of testimony, and an unclean day a feast day, and they will confound all the days, the holy with the unclean, and the unclean day with the holy; for they will go wrong as to the months and sabbaths and feasts and jubilees. For this reason I command and testify to thee that thou mayst testify to them; for after thy death thy children will disturb (them), so that they will not make the year three hundred and sixty-four days only, and for this reason they will go wrong as to the new moons and seasons and sabbaths and festivals, and they will eat all kinds of blood with all kinds of flesh."[41]

The sages, in order to demonstrate the validity of the changing of the calendar from a solar to a lunar-solar, declared that the fixation of the month should be according to the observation of the birth of the new moon. They also enacted a law that anyone who witnessed the birth

[41] Jubilees 6. On the Book of Jubilees, the date of composition and the calendar, see S. Zeitlin, *The Book of Jubilees.*

of the new moon should go to Jerusalem where the Sanhedrin held its session, to testify before it that they observed the birth of the new moon. Upon the testimony of these witnesses the court proclaimed the New Moon.[42] Furthermore, the sages maintained that if the birth of the new moon was observed on a Sabbath these witnesses had the right to travel on the Sabbath to Jerusalem to testify before the court,[43] whereas travel on the Sabbath was prohibited; and, according to the old Halakah, was punishable by death.[44] This is the origin of the institution of the sanctification of the New Moon.

With the change of the calendar from the solar system to the lunar-solar the figuring of the day was also changed. Hitherto the day began with sunrise; now, when the calendar was changed to lunar-solar, the Jews started to begin the day from the evening — nightfall. This system to have the day begin with nightfall was practiced by the Jews throughout the period of the Second Commonwealth down to our own time. With the change of the calendar the New Year was also changed. Previously, when the Jews followed a calendar according to the solar system, the New Year began in the spring in the month of *Abiv.* Now with the change of the calendar to a lunar-solar the New Year was shifted from the spring to the fall and began with the month of *Tishri.*[45] The reason for this change was that the Jews, being largely at that time an agricultural people, it was more in accordance with their life as farmers to have the New Year in the autumn after the harvest had been gathered instead of in the spring. Particularly, the lunar calendar had nothing to do with the movements of the sun; only in a solar calendar would the year begin with

[42] Mishna R. H. 2, 8.
[43] Ibid.
[44] See Book of Jubilees, 50.
[45] R. H. 8a: באחד בתשרי ראש השנה לשנים.

spring. The change of the New Year from the spring to the autumn coincided with the Sabbatical year which began with the autumn (*Tishri*). Hence it was more practical to have the regular year coincide with the Sabbatical year. Furthermore, the neighboring nations of the Jewish people had their New Year in the autumn. As to the biblical phrase that the month *Abiv* is the first of the months of the year, the sages interpreted it to mean that the month *Abiv* (*Nisan*) comes first in the counting of the months of the year but that the year actually begins in the autumn with the month of *Tishri*.[46]

The authority to intercalate the year was in the hands of the Patriarch (Nasi).[47] The Patriarch, with the members of the Sanhedrin, intercalated the years as well as the months; and, when a particular month was intercalated, i. e., was made to consist of 30 days, messengers were sent throughout the country to notify the Jews of the intercalation.[48] When the Patriarch saw fit to intercalate a year, that is, to add another month, he notified the Jews all over the Diaspora by sending epistles to tell them that the year would be intercalated, consisting of thirteen months, and gave them the reasons for such intercalation.[49]

Although in the later part of the Second Commonwealth the Jews were familiar with the phases of the moon and knew that a lunar month consisted of 29 days, 12 hours and 793 divisions of the hour,[50] nevertheless they continued with

[46] Yer. ibid. 1: החדש הזה לכם ראש חדשים לכם הוא ראש ואינו ראש לא לשנים.

[47] 'Eduy. 7, 7: על תנאי ולכשירצה רבן גמליאל, also R. H. 2: ראש בית-דין אומר מקודש.

[48] In the early days, in order to announce the New Moon, fire signals were raised. R. H. ibid.: בראשונה היו משאין משואות.

[49] Sanh. 11: מעשה ברבן גמליאל . . . וטול אגרא חדא וכתיב לאחנא בני גלוותא דבבל . . . ולשאר גלוותא דישראל . . . ושפיר מילתא באנפיי ובאנפיי חבירייי ואוסיפת על שתא דא יומין תלתין.

[50] R. H. 25: אמר להם רבן גמליאל כך מקובלני מבית אבי אבא אין חדושה של לבנה פחותה מעשרים ותשעה יום ומחצה ושני שלישי שעה וע'ג חלקים.

the system of the sanctification of the months by the observance of the birth of the new moon. They continued this practice in order to follow the old Jewish tradition which was in vogue since the establishment of the lunar-solar calendar.

As long as the Temple stood, the Patriarch, who was the head of the Sanhedrin and claimed to be a descendant of the Davidic family, exercised his full authority over the entire Jewish people — in Palestine and in the Diaspora. With the power to intercalate the months and the years, he regulated the spiritual life of the Jewish people throughout the world. With the destruction of the Temple, however — particularly after the great catastrophe that befell the Jews at the time of the revolt of Bar-Kokba — the Jews of Babylonia tried to sever themselves from the authority of Palestine. At that time the Jews of Palestine were persecuted by the Romans. Many times their religion was suppressed. In Babylonia, on the other hand, the Jews were very well established and were in better political and economic circumstances. They aspired to establish their own independent spiritual life thus attempting to intercalate the years independent of Palestinian sanction.[51] For a while, however, they did not succeed. The authorities of Palestine sent apostles to persuade the Babylonian Jews not to cause any schism among the Jewish people, and even threatened them if they would defy the Sanhedrin of Palestine.[52] The authorities in Palestine succeeded for a time in dissuading the Jews from having independent intercalation of the years and thus continued the authority of Palestine. It is possible that at that time the rabbis enacted the law that the intercalation of the year could

[51] See Yer. Ned. 6: חנניה בן אחי רבי יהושע עיבר בחוצה לארץ . . . קם ר' יצחק וקרא כתיב באראייתא אלה מועדי חנניה בן אחי ר' יהושע . . . קם ר' נתן ואשלים כי מבבל תצא תורה. See also Yer. Sanh. 1, Ber. 63a.

[52] Ibid.: אם אין את מקבל עליך צא לך למדבר האטד ותהא שוחט ונחינין זורק.

take place only in Judea. They knew, however, that it would not always be possible to assemble a Sanhedrin in Judea since most of the Jews lived already in Galilee. So the law was that if the intercalation of the year took place in Galilee it was valid.[53] However, under no circumstances could the intercalation of the year take place outside of Palestine. If it was intercalated in the Diaspora it was void.[54]

As time passed the condition of the Jews in Palestine became more unbearable due to persecutions and, on the other hand, the community in Babylonia became stronger and stronger. Again an attempt was made to sever the Babylonian Jews from Palestinian authority by introducing the scientific method of the calculation of the Jewish calendar without being dependent on the Palestinian authorities who sanctified the month according to the observation of the new moon.[55] This time again the Babylonian Jews did not meet with success. However, owing to the growth of the Jews in Babylonia and the diminishing of Jewish life in Palestine, the authorities of Palestine had to compromise with the Jews of Babylonia by introducing something new in the Jewish calendar. As remarked before, there were no specific days of the week on which the Jewish festivals might fall. To suit the Babylonian Jews the Palestinian Jews made the following innovation: that the Day of Atonement could not fall on Friday as it was very difficult for the Jews to keep these two consecutive days, and in the same way they enacted that the Day of Atone-

[53] Yer. Sanh.: אין מעברין את השנה אלא ביהודה ואם עיברוה בגליל מעוברת.

[54] Yer. ibid.: בחוצה לארץ אין מעברין ואם עיברוה אינה מעוברת. Comp. also Tosefta, ibid. 2.

[55] R. H. 20b: אמר שמואל יכולנא לתקוני לכולה נולה; see Ḥulin 95b: שדר ליה עיבורא דשתין שני אמר השתא חושבנא בעלמא ידע; ואישתביין בנתיה דשמואל . . . אלא מן חטאת דחנניה בן אחי ר' יהושע שעיבר השנה בחוצה לארץ, Yer. Ket. 2.

ment could not fall on Sunday.[56] Thus, the days of *Rosh ha-Shanah* were also restricted: the first day of *Rosh ha-Shanah* could not be on Wednesday, to prevent the Day of Atonement falling on Friday and, also, could not fall on Friday, to prevent the Day of Atonement falling on Sunday. Later they even enacted that the first day of *Rosh ha-Shanah* should not be on Sunday so that the Day of the Willow (the 7th day of the festival of Tabernacles) should not fall on the Sabbath.[57] With the restriction that the first day of *Rosh ha-Shanah* could not fall on these days mentioned the other festivals also became restricted as they could not fall on certain days. The first day of Passover could not fall on Monday, Wednesday or Friday.[58]

This innovation in the Jewish calendar to restrict *Rosh ha-Shanah* to specific days had a far-reaching effect on the calendar. Hitherto if the birth of the new moon was observed, let us say, on Saturday, late in the afternoon, the birth of the New Moon was celebrated on Sunday. Now, if the birth of the new moon in the month of Tishri was late on Saturday the sanctification of the New Moon which is the first day of *Rosh ha-Shanah* could not fall on Sunday and, hence, had to be postponed to Monday. This postponement not only affected the month of *Tishri*, but other months as well. The Jews had to arrange the previous months accordingly that the first day of *Tishri* should be on Monday. Thus they added a day to the month of *Heshvan* of the previous year, and such year was called a full year. In some years they had, on account of these restrictions of the days of *Rosh ha-Shanah*, to have *Heshvan*

[56] R. H. 20: אמר עולא ידעי חברין בבלאי מאי טיבותא עבדינין בהדייהו. Comp. also Yer. 'Ab. Zarah 1.

[57] לא אד'ו ראש. Comp. also Yer. Suk. 4, 1: ר' סימון מפקד לאילן דמחשבין יהבון דעתכון דלא תעבדין לא תקיעתה בשבת ולא ערבתא בשבתא, ואין אדחקתון עבדון תקיעתה ולא תעבדון ערבתא.

[58] לא בד'ו פסח.

and *Kislev* both to consist of 29 days each, and such year was called deficient. This new regulation was indeed a revolutionary change in the Jewish calendar. Moreover, the authority of Palestine was diminished, if not broken. The old system to have the Jewish calendar depend on the observation of the new moon disappeared since the Jews had to arrange the months in advance so as to make certain when the days of *Rosh ha-Shanah* should fall.

However, the authority of the Palestinian scholars over their coreligionists in Babylonia did not entirely cease. The Palestinian Jews still regulated the festivals, as only they had the authority to intercalate the years. With this they exercised their influence over the Babylonian Jews. Even this, however, did not last too long. In the middle of the 4th century the Jews of Palestine went through terrible suffering. Their religion was suppressed. In the time of Constantinus II they were forbidden to assemble for any religious function and were not allowed to intercalate the years. The members of the Sanhedrin had to meet in secrecy in order to intercalate the years, and had to inform their coreligionists by secret code as they could not send their decisions openly. The Talmud tells us of one of such incidents. "A couple had arrived from Rakkath (Tiberias); they were captured by an eagle (Rome) while in possession of articles made in Luz such as purple. Yet through divine mercy and by their own merits they were released. Further, the offspring of Nahshon (scion of the family of David) wished to establish a Nazib (a month); but the Edomite (Romans) would not permit it. The members of the Sanhedrin, however, met and established a Nazib in the month in which Aaron, the priest, died (the month of Ab)."[59]

[59] שלחו לרבא זוג בא מרקת ותפשו נשר ובידם דברים הנעשה בלוז ומאי ניהו תכלת בזכות הרחמים ובזכותם יצאו בשלום ועמוסי יריכי נחשון בקשו לקבוע נציב אחד ולא הניחו אדומי [רומי] הלז אבל בעלי אסופות נאספו וקבעו לו נציב אחד בירח שמת בו אהרון הכהן, Sanh. 12a.

From the document we may learn the political condition of the Jews in their own country — the land of Israel. Their religion was suppressed, they were even not allowed to assemble to intercalate the years and they were prohibited from having any communication with their brethren in Babylonia. It is quite evident under such conditions, that the Jews of Palestine were not able to continue to regulate the life of the Jews of Babylonia by the fixation of the calendar.

Tradition tells us that Hillel II made known to the Jews of Babylonia the order of the intercalation and the system of the calendar.[60] As a matter of fact Hillel II did not disclose any secret of the intercalation as it had been well-known centuries before by many rabbis in Babylonia. The Talmud tells us that Samuel said he could arrange the calendar by calculation.[61] The correct interpretation of the tradition is that the Patriarch Hillel II, relinquished his rights over the Jewish calendar that he alone had the right to intercalate the years, now that the Jews of Babylonia became independent of Palestine. The intercalation of the months was already practiced in Babylonia independently of Palestine. The rights of the intercalation of the years were now also given up by the Palestinian authorities.

What kind of method did the Babylonian rabbis adopt? Had they adopted the Palestinian method that every eight years three months should be intercalated? Or, did they adopt the Metonic system which was in vogue in their country whereby in every nineteen years seven years were intercalated? We do not know. During the period of Hillel II to the time of Saadia the arrangement of the Jewish calendar is shrouded in darkness.

[60] See above note 15. See also Maimonides, ומאימתי: קדוש החדש ה' התחילו כל ישראל לחשב בחשבון זה מסוף חכמי הגמרא בעת שחרבה ארץ ישראל ולא נשאר שם בית דין קבוע.

[61] See above note 55.

From the writings of Saadia we learn that the Jews of Babylonia adopted the Metonic method.[62] We may surmise that from time to time the Jews of Palestine resented the idea that the Jews of Babylonia intercalated the years according to the Metonic system. But the Jews of Palestine lost their influence entirely owing to their enslaved and impoverished condition. Further, they did not have any great academies nor did they produce any scholars of note. On the other hand, in Babylonia, the academies were flourishing and the Jews there produced eminent scholars. The Babylonian Jews did not want to relinquish any of their own superiority.[62a]

Since we have presented the barest facts of the history of the Jewish calendar we should now be able to have a full understanding of the causes which brought about the sharp polemics between Saadia and Ben Meir.[63]

3.

The Underlying Reasons of the Clash between Saadia and Ben Meir

Ben Meir, a man of great energy and learning, headed the Palestinian academy at the beginning of the 10th century. He claimed descent from the Davidic family.[64] Thus he was a direct successor to the previous Patriarchs who were the heads of the Sanhedrin. Having the two

[62] See Isaac Israeli, כי הנאון רב סעדיה . . . ונצטוה להם שיהיה יסוד עולם, עבור השנים במחזור על סדר גו"ח אדו"ט.

[62a] Comp., however, Jacob Mann, *The Jews in Egypt and in Palestine under the Fatimid Caliphs*, I, 52–4.

[63] Since my purpose in giving the history of the calendar was to clarify the controversy between Saadia and Ben Meir, I have given only the history of the calendar which has a bearing upon this controversy. However, I have eliminated all the discussions relating to תקופת רב אדא or תקופת שמואל.

[64] וירשנו מאבותינו רבן נמליאל הנשיא ורבנו יהודה הנשיא.

authorities concentrated in himself — the spiritual (*Semikah*), which he claimed direct from Moses;[65] and the secular, as a descendant of the Davidic family — Ben Meir had the ambition to restore the old influence to the Palestinian academy. Since the Sanhedrin of Palestine dominated Jewish life by the fixation of the calendar, Ben Meir wanted to restore the old prerogative of the Palestinian academy to regulate the Jewish calendar. He thought the time was opportune for him to succeed with his idea — to restore the center of Jewish life to Palestine. The academies in Babylonia at that time were on the decline. The great academy of Sura was on the point of closing up entirely[66] and the other famous academy, that of Pumbedita, was also showing a marked decline owing to a bitter struggle between the scholars and the Exilarch.[67] Therefore Ben Meir thought this was the proper time to overthrow the Babylonian authority and restore it to the Palestinian academy over which he presided.

In the year 4684 (923 C. E.), the birth of the new moon *Tishri* was on Saturday, 237 fractions after the noon hour.[68] According to the Babylonian Talmud if the birth of the new moon happened to be after the noon hour the sanctification of the New Moon should be postponed until the following day.[69] Hence they had to postpone the sanctification of the New Moon of *Tishri* until Sunday; but, as the first day of *Tishri* is *Rosh ha-Shanah* and could not be on Sunday, it had to be postponed until Monday. With these two postponements the month of *Elul* would consist of 31 days, which could not be permitted; and, therefore,

[65] Being the head of the Sanhedrin.

[66] See the *Epistle of Sherira Gaon*: אתמר ביני רבנן לבטולה למתא מחסיא ולמייתי מאן דמשייר לפום בריתא.

[67] והוה פלונתא . . . דרבנן דמתיבתא.

[68] נולד תשרי ביום השבת בשש שעות רל"ז חלקים.

[69] See R. H. 20.

to remedy this the Jews had to take care in the previous years to adjust the calendar accordingly. Thus, in the year 4682 (921 C. E.) *Heshvan* and *Kislev* had to be declared full months; that is, consisting of 30 days each.[70] Ben Meir, however, issued a declaration that *Rosh ha-Shanah* in the year 4684 (923 C. E.), should be on Saturday, since the birth of the new moon was only 237 fractions after the noon hour. He asserted that he had a tradition that the sanctification of the month should be postponed only when the birth of the new moon was 642 fractions after the noon hour.[71] Hence the months of *Heshvan* and *Kislev* of the year 4682 (921 C. E.), had to be deficient — each month consisting of 29 days.[72]

From the Genizah Fragments which we have relating to the Saadia–Ben Meir controversy, we know that Ben Meir not only opposed the shifting of *Rosh ha-Shanah* from Saturday to Monday, but contested the right of the Babylonian scholars in intercalating the years.[73] The year 4682 (922 C. E.) was intercalated so as to consist of thirteen months. Since this was the eighth year of the nineteenth cycle of the Metonic system (the intercalated years in the Metonic system being as follows: 3d, 6th, 8th, 11th, 14th, 17th and 19th), Ben Meir could not object to this year being intercalated as it was a pre-Sabbatic year and thus would be declared in Palestine as well. From the tannaitic literature we know that the pre-Sabbatic year was usually intercalated. However, according to the Metonic system the year 4691 (931 C. E.), would be likewise intercalated

[70] והכריזו מרחשון וכסליו שלמין והפסח בשלישי בשבת.

[71] וירשנו מאבותינו . . . . ואם נשתייר רביע יום חסר אמר'ת . . . . ואם חסר במר'ת דוחין אותו.

[72] כדת קדמונים הפסח באחד בשבת ומרחשון וכסליו חסירין.

[73] כי אחם יודעים שהנביאים הראשונים והחכ' נמנעו מלעבר בחוצה לארץ . . . . יש הרשות לחבורת ארץ יש' על חכמי בני הגולה, ואין לבני הגולה רשות על בני ארץ יש' . . . . ולא נראתה ולא נשמעה מעולם לבני הגולה להורות.

since it was the seventeenth year of the cycle, but it could not be intercalated in Palestine as this year was a post-Sabbatic year. According to tannaitic literature the Sabbatic year, as well as the post-Sabbatic year, may not be intercalated.[74]

The Exilarch became alarmed by Ben Meir's declaration, particularly since it caused a schism of wide proportions in the Jewish ranks. Many Jews celebrated the first day of Passover on Tuesday while others did so on Sunday.[75] Being fearful that Ben Meir might succeed in the re-establishment of the Palestinian center, a truce was formed between the scholars and the Exilarch in order to combat Ben Meir.[76] In this struggle against Ben Meir, Saadia joined the Babylonian authorities.[77] Saadia was known for his art in polemics and for his skillful handling of the controversies with the Karaites. He possessed a profound learning and was the outstanding man of that period. He was a genius and possessed literary skill, much superior to his opponent, Ben Meir. The controversy was conducted with fury in a very acrimonious manner which shows that the quarrel was between two men who held different points of view on Judaism and Jewish leadership. Each considered the other's point of view as a danger to the Jewish religion. The question was who should dominate the Jewish spiritual life — Palestine, the *Land of Israel*, although consisting of a small minority of the Jewish people; or Babylonia, with its center of Jewish learning where a great majority of the Jewish people were concentrated.

[74] See Yer. Sanh. 1, Tosefta, 2.

[75] ואם עשיתם בניסן בשנגה על תעשו בתשרי. See above note 7.

[76] See the *Epistle of Sherira Gaon*: ועבדו שלמא דוד נשיא עם מר רב מבשר. Comp. also the letter of Saadia (*JQR*, IX): כי כלנו שוין בדבר הזה, ואין בינינו חלוקה כל עיקר . . . כי ראש הגולה יעזרהו קדושנו וגם ראשי ישיבות. ויהי כאשר שמע נשיאנו וראשי הישיבות והאלופים . . . ויחרדו חרדה גדולה. (*REJ* 41).

[77] See his letters pub. *JQR*, v. 9 and v. 14.

Indeed, from the arguments used by the opponents of Ben Meir we may conclude that the controversy was not merely on the question of the calendar, but was much deeper — the problem of leadership by Palestine, the Land of Israel, with its great tradition or the Diaspora, Babylonia, the present center of Jeaish culture.

The argument of one of the opponents of Ben Meir, as presented in a Fragment of the Genizah, takes the position that it was true that in the time of the Temple only the Palestinian rabbis had the right to intercalate the years and notify the Babylonian Jewry of their acts. This was due to the fact that the Babylonian Jews were not acquainted with the order of intercalation; but since then many scholars had gone from Babylonia to Palestine and studied the order of intercalation from the Palestinian rabbis. Indeed for many years the argument continues that the Babylonian scholars, independently of the Palestinian scholars, intercalated the years and no one in Palestine ever objected to this.[78] This opponent of Ben Meir goes further to say that many scholars who reached a very old age never could recall that the Babylonian Jews ever had to ask the Palestinian rabbis about the intercalation of the years and the sanctification of the months.[79] He continued that the Palestinian Jews had their own tradition which they received from their forefathers and the Babylonian Jews had also their own tradition.[80] Ben Meir, however, answered

[78] ואנחנו יודעים כי מבראשונה ומימים שהיה בית המקדש קיים, לא היה עבור השנה תלוי . . . אלא בחכמי ארץ ישראל . . . גם ידענו כי הראשונים היו שולחים ודורשי מרבותינו שלארץ ישראל . . . לפי שלא היו בקיאין בסדר העיבור . . . אבל משנים רבות כבר עלו כמה חכמים מבבל לארץ ישראל, ודקדקו עם חכמי ארץ ישראל בסוד העיבור . . . וכבר הם קובעים חדשים בבל זה שנים רבות לבדם וגם חכמי ארץ ישראל . . . לבדם.

[79] הנה נא יש בישיבות זקנים שהגיעו לגבורות, וגם הזקינו מאד, וכולם אין אחד מהם זוכר שהוצרכו אנשי בבל לשאול עיבור שנים וקביעת חדשים מארץ ישראל.

[80] אלא אתם [מנהג אבותיכם ביד] כם וגם אנחנו מנהג אבותינו בידנו ואנחנו מעברים. Bornstein, op. cit.

his opponent very decidedly that, according to the tannaitic literature, under no circumstances could the year be intercalated outside of Palestine.[81] To Saadia's claim that the sanctification of the New Moon should be postponed when the birth of the new moon occurs after the noon hour, Ben Meir retorted that, according to his tradition which went back to the Patriarch Gamaliel, the sanctification of the New Moon might be postponed to the following day only when the birth of the new moon occurred 642 fractions after the noon hour; less than that, it could not be postponed.[82]

From the Genizah Fragments that we have we do not know how Saadia combatted all of Ben Meir's arguments (since not all of the literature came to light). However, we do know Saadia's view on the calendar from the attacks of the Karaite, Solomon ben Yuruhim (a contemporary of Saadia), against Saadia and particularly from Saadia's own words, quoted by Isaac ben Baruch (Spanish scholar of the 11th century). From the quotation of Saadia given by Isaac ben Baruch[83] we know that Saadia was of the opinion

[81] סנהדרין ישראל הנאמנים הקובעים מועדים וזמנים . . . אין רשות לאדם מישראל להשיג גבול ראשונים . . . אין משגיחין בעיבור החדש ובקידוש החדש [אלא על בני ארץ ישראל] Comp. also Ket. 112 and Yer. R. H. 2, בסוד עמי לא יהיו זה סוד העיבור ובכתב בית ישראל לא יכתבו זה המיניו. In the councils of intercalation they (the Babylonian Jews) will not participate. In the Talmud the words סוד העיבור have the connotation of the council by whom the months and the years were intercalated. However, in the later Rabbinic literature the words סוד העיבור were taken to mean the secrecy of the intercalations. But there never was any secrecy about the intercalation; it was very complicated and hence only a few scholars knew about the Jewish calendar while the Jews at large, owing to their lack of knowledge on the calendar, thought that the intercalations were shrouded in secrecy. This error was even followed by modern writers who mistook the words סוד העיבור to mean the secrecy of intercalation.

[82] ואם נשתייר רביע יום חסר אמר'ת חלקים עושין אותו . . . ואם חסר במר'ת דוחין אותו.

[83] Comp. ספר העבור, Abraham Bar Chyiah, VIII, pp. 59–62; יסוד עולם, Isaak Israeli, מאמר ד', פ' שישי; comp. also B. Lewin, אוצר הגאונים ר"ה.

that the Jewish calendar as was in vogue in Babylonia came from Moses like the Pentateuchal laws.[84] Saadia held that the Jews of ancient times and during the Second Commonwealth sanctified their New Moons and Holydays according to the calculation.[85] The Jews had the cycle of the nineteen years and they intercalated this cycle seven times (the 3d, 6th, 8th, 11th, 14th, 17th and 19th years).[86] He stated that *Rosh ha-Shanah* had never occurred on Sunday, Wednesday or Friday; nor the Day of Atonement on Friday or Sunday; nor the first day of Passover on Monday, Wednesday or Friday.[87] According to him if the birth of the new moon of Tishri took place on Saturday after the noon hour *Rosh ha-Shanah* had to be postponed until Monday.[88] All these postponements, he said, were given to the Jews by Moses;[89] and the assertions in the Talmud that the first day of Passover fell on a Friday were only academic, for the first day of Passover never had fallen on Friday.[90] He further maintained that all statements in the Talmud that the sages sanctified the New Moon according to the observation of the birth of the new moon were only to demonstrate against the ideas of Zaddok and Baitus (Sadducees).[91] Saadia further asserted that Moses made

[84] וכן יאמר הגאון הזה ז'ל היה כל זה קבוע מהר סיני . . . ממרע"ה שנמסרו לנו ע"פ . . . וכמו שנמסר לו ע"פ . . . שעור הסוכה (יסוד עולם).

[85] . . . . מכלל שלא היו ב"ד בזמן ההוא עושין ע"פ החשבון כמו שאומר הגאון

[86] ונצטוה להם שיהיה עבור השנים במחזור על סדר נו"ח אד"זט . . . שנאמר לנו במעמד ההוא כי רצון האל ית' הוא בזה להיותם פעם שניהם מלאים . . . חסרים.

[87] ואמר הגאון ר' סעדיה . . . קבוע היה מהר סיני שלא יהיה פסח יום שני כדי שלא יהיה יום הכפורים ערב שבת (ספר העבור).

[88] כי רצון האל יתברך הוא בזה כשחל מולד תשרי מי"ח שעות ומעלה . . . לדחות . . . עד ליום שני בשבת (יסוד עולם).

[89] וכך יאמר הוא שנמסרו למשה רע"ה על פה מפי הגבורה במעמד ההוא.

[90] כדי לפלפל התלמידים עד שידעו איך היה לו הדין להיות נוהג בהם אלו היו נמצאות.

[91] ולא היו ב"ד בזמן הראשון נזקקין לראיה . . . . ואמר כי בני דורו וב"ד שלאנטיגנוס איש סוכו התקינו דין ראית הלבנה בחדושה בר"ח כדי לבטל דברי צדוק ובייתוס.

the law that in Palestine the festivals should be kept only one day, but in the Diaspora two days.[93]

It is indeed deplorable that Saadia, in refuting Ben Meir, distorted talmudic passages and advanced untrue hypotheses.

In his fight for the independence of Babylonia from the hegemony of the few Jews in Palestine and for the establishment of the Jewish calendar on a scientific basis, he was quite right, and Jewish history for the last one thousand years has vindicated him.

The intercalation of the years could not be arbitrary as it was among the Jews of Palestine during the Second Commonwealth and the early days. The Jews of Babylonia, who constituted the great majority of the Jews of that period and were supreme in scholarship, could not wait until the few Jews in Palestine would intercalate the years. They had to have a fixed calendar once forever that all the Jews might know in advance which year should be intercalated and on which days the festivals should fall. Furthermore, the calendar in use in Palestine, according to which three years were intercalated every eight years, was not perfect; while the cycle of nineteen years, which was adopted in Babylonia, was more scientific.

Again, the Babylonian Jews, in order to keep the Day of Atonement, had to arrange that it should not fall on Friday or Sunday as it would be impossible for them to keep it. Particularly, if one had died on Friday night he could not be buried until Monday (since according to the Jewish law no burial is permitted on Saturday or the Day of Atonement) and it would be impossible in such a hot climate as Babylonia to preserve the corpse for two days

[93] כי רבנו סעדיה אמר בפירושו . . . הקב"ה צוה את משה עבדו והוא אמר לישראל כי בארץ יהיה להם יום אחד ובחוצה לארץ שני ימים וכן היה מעולם (תשובות הגאונים, לרב האי).

(the art of embalming was not known to them). Thus, the calendar had to be adjusted so that the Day of Atonement should not fall on these days. And indeed the calendar system for which Saadia fought is still in use today. So far we see that Saadia was right in his fight against Ben Meir. However, as we pointed out before, his arguments were faulty. Already Hai Gaon had noticed that Saadia Gaon's arguments were only for the purpose of dismissing the heretic.[93] Isaac ben Baruch, who quoted Saadia's contentions at length, refuted him on every point and showed from the Talmud the fallacy of Saadia's ideas.[94] Maimonides was even stronger in his utterance against Saadia. Maimonides said that he wondered how a man could say that the Jewish religion was not based on the observation of the moon but on calculation only; he continued that Saadia, regardless of true or false statements, was only interested in refuting his opponent.[95] Abraham Ibn Ezra also maintained that what the Gaon (Saadia) said about the Jews intercalating the months according to calculation was not true.[96]

Indeed everyone who is acquainted with the Talmud knows that in the time of the Tannaim the Jews did not have a fixed calendar: Passover did fall on Fridays; *Rosh ha-Shanah* fell on Sundays;[97] the Day of Atonement fell on

[93] כך ראינו כי זה שאמרתם שכתב רבינו סעדיה ז'ל קנה הוא שרחה את אפיקורוס.

[94] Op. cit.: כי הרב יצחק ב'ר ברוך בטל כל טענות הגאון ואמר כי האמת בזה הוא . . . כל זמן בית ראשון ושני וגם זמן רב אחר חורבן ע'פ הראייה.

[95] ואני תמיה מאדם יכחיש הראות ויאמר כי דת היהודים אינה בנויה על ראיית הלבנה אלא על החשבון בלבד. אבל היתה דעתו בזה המאמר להשיב אחור בעל דינו באי זה צד יזדמן לו בשקר או באמת. (פ' המשניות ר"ה ב')

[96] ומה שאמר הגאון כי על חשבון העיבור היו נסמכי' איננו אמת כי במשנה גם בתלמוד ראיות שהי' פסח בבד'ו (פ' אמור כ"ג, נ')

[97] יום הנף שחל להיות בשבת דוחה את השבת. The day of the Omar (16th of Nisan) which falls on Sabbath takes precedence of Sabbath. It is plain if the 16th of Nisan is on the Sabbath the 15th of Nisan — the first day of Passover — is on Friday. Tosef. Men. 10; B. ibid.: אשה חופפת בערב שבת וטובלת במוצאי שני ימים טובים של ראש השנה שחל להיות אחר השבת

Fridays and on Sundays.[98] They had no fixed days.[99] Also, every one who studies the Talmud knows that the observance in the Diaspora of the two days' Holydays is not biblical, but rabbinical.[100] Even the observance of the two days of *Rosh ha-Shanah* is not biblical, but rabbinical.[101] Therefore it was indeed deplorable that Saadia, by such untrue statements, gave the Karaites a weapon to attack both him and the Rabbinites and also the excuse to attack the rabbis, saying that they had distorted Jewish tradition.[102] However, Saadia Gaon believed that *the end justified the means*. He had a righteous cause and he fought with all the means he thought necessary.[103]

(Nidah 67a). A woman is permitted to dress her hair on the first day of the week and to bathe in purification on the fourth day, as we find in another case that she may dress her hair on the eve of Sabbath and take the purification bath on the night of the second day of *Rosh ha-Shanah* when the first day falls on Sunday. Thus we see clearly that in the Tannaitic period the first day of *Rosh ha-Shanah* fell sometimes on Sunday. Comp. also Suk. 43b.

[98] See Yer. 'Ab. Zarah, 1, B. R. H. 20a; comp. also Men. 99b: חל יום כיפורים . . . . להיות בערב שבת . . . . והבבליים אוכלין אותו כשהוא חי.

[99] Tos. Ar. 1: עצרת פעמים שחל להיות בחמשה ובששה ובשבעה. The festival of *Shabuot* may fall on either the 5th, 6th, or 7th of Sivan. If the months of Nisan and Iyar are of 30 days each the festival of *Shabuot* would be on the 5th of Sivan. If one of these months has 29 days and the other month has 30 days, the festival would be on the 6th; but, if the two months are of 29 days each, the festival would be on the 7th. This shows beyond doubt that in the time of the Tannaim the festivals had no fixed days.

[100] Comp. R. H. 20b.

[101] Comp. also, Maimonides, קדוש החדש, ה': וכל יו"ט בו מד"ס ואפילו יו"ט מאחר; Comp. also, ביצה, המאור הקטן, שני של ר"ה שהכל עושין אותו בזמן הזה שהותקן סדר העיבור ע"פ המנהג שנהוג בידנו הרי חזרה כל א"י להיות כבית הוועד שאין להם ספק בקדושת היום ואינן חייבין לשמור כ"א יום אחד בין בר"ה ובין בשאר ימים טובים, וכן נהגו לעשות באי"י כל הדורות שהיו לפנינו עד עתה חדשים מקרוב באו לשם מחכמי פרובינציא והנהיגו לעשות שני ימים טובים בר"ה ע"פ הלכות הרי"ף.

[102] See Ed. Israel Davidson: ספר מלחמות ד', סלמון בן ירוחים. כשל כחך סעדיה הפיתומי כי התעית בשקרך בני אמי . . . לכן באד"ו ראש השנה היה . . . ופסח בבד"ו . . . נמצאת תועה ומתעה.

[103] In the same manner he fought the Karaites, applying all the means he thought necessary. In his time many Karaites migrated to Palestine. Some groups were formed among them who were called

The battle was won by the Babylonian authorities with the help of Saadia and, as we said before, the history of the last thousand years vindicated Saadia. Only when a great portion of the Jewish people will settle in Palestine and a Jewish center of learning will be established there — *particularly when the Jews of Palestine will be able to produce their own rabbinical scholars — then will Palestine again be able to exert influence upon the Jews of the Diaspora.*

4.

Saadia and Jewish Leadership

In the previous passages we presented the underlying reasons for the clash about the calendar between Saadia and Ben Meir. However, it was not the calendar that was the true cause of this clash; it was really the contention of the supremacy of the Babylonian academy over Palestine. Having in mind this point of view we may better understand why Ben Meir called Saadia Jeroboam.[104] Ben Meir compared Saadia to Jeroboam who snatched from Rehoboam, the son of King Solomon, the rightful authority and established his idols outside of Jerusalem. For this usurpation Jeroboam became anathema to the Jewish people throughout the ages. Ben Meir charged Saadia likewise with usurping the rightful authority from Palestine and establishing his own in Babylonia.

It is the irony of history that the *Mizrachi* (Orthodox Branch of the Zionist Organization) and the Jews of

"Mourners for Zion". Saadia, to combat these Karaites, omitted from the liturgy the prayer ואור חדש על ציון תאיר. Comp. וכן מצאתי, שבלי הלקט בשם רב שרירא גאון וצ"ל שהשיב ואשר אמר מר רב סעדיה גאון וצ"ל שאין שליח צבור רשאי לומר ואור חדש על ציון תאיר לא כך הוא אצלנו אלא בשתי ישיבות מעולם אומרים ואור חדש . . .

[104] וירבעם חטא והחטיא את הרבים.

Palestine celebrated the one thousandth anniversary of the death of Saadia Gaon who helped to destroy the Palestinian hegemony. Saadia in his controversy against Ben Meir had as his motive the elevation of the Babylonian academy over the Palestinian academy. He was greatly responsible for the destruction of the Palestinian calendar. The calendar which was used in Palestine was so arranged that no intercalation could be declared in a Sabbatical year or in a post-Sabbatical year in order to lessen the hardship of the farmers. However in the calendar, which we use now and for which Saadia fought so skillfully, the Sabbatical years are sometimes intercalated. For example, the year 1932 C. E. (5692), was a Sabbatical year and was intercalated (it being the eleventh year of the nineteen year cycle). And so the year 1946 C. E. (5706), will be a Sabbatical year and will be intercalated (since it is the sixth year of the nineteen year cycle). These intercalations in the Sabbatical years will add a burden to those farmers who are particular in the observance of the Jewish law.

Saadia, for his assistance to the Jews of Babylonia in the struggle to maintain their leadership over the Jews, was rewarded by the Exilarch, David ben Zakkai, by being appointed Gaon of the academy of Sura. Saadia was the first foreigner (since he hailed from Egypt) to occupy this highest post.[105] There may be another reason which prompted the Exilarch David ben Zakkai to appoint Saadia as the Gaon of Sura. The head of Pumbedita academy, a very energetic man whose name was Kohen-Zadek, was eager to close the school of Sura entirely and have only one academy with himself as leader. The Exilarch feared if the Gaon of Pumbedita succeeded in his ambition he would prove a dangerous rival to himself.

[105] See Malter, op. cit. See also S. Zeitlin, *JQR*, XXXI, 1940.

He therefore decided to invite Saadia to head the academy of Sura. The choice of Saadia as head of the academy of Sura was due to two reasons: first, the Exilarch wanted to reward him for the aid which he rendered the academy of Babylonia in his skillful and successful contentions against Ben Meir; and secondly, the Exilarch felt that Saadia, being a foreigner and owing his position to the Exilarch, would be loyal to him and could be of assistance to him in his combat against Kohen-Zadek.

The peace between Saadia and the Exilarch, Kohen-Zadek, did not last long and a clash ensued. This clash, as we noted before, was due to their diverse points of view on leadership. Saadia Gaon held that Jewish life should be guided by spiritual leadership while the Exilarch Kohen-Zadek, was of the opinion that it should be under secular leadership. The clash widened between these two men. The Exilarch removed Saadia from his Gaonate and appointed someone else in his stead. Saadia Gaon, in retaliation, removed the Exilarch and appointed another man in his place. This was the first time in Jewish history that a Gaon removed an Exilarch and chose someone else in his place. Saadia did not succeed entirely in destroying the Exilarchate, but did succeed in diminishing the power of the Exilarch. Now the Gaon, the religious leader, gained more influence and power over the Jewish people.[106]

Thus, Saadia Gaon in his strife against the Karaites Ben Meir and the Exilarch had one aim: to unite the Jews under religious leadership. He strongly held that the Jews were a people only through the Torah[107] and hence the leadership should be vested in a man who had the authority to interpret the Torah.

[106] Idem. ibid.

[107] אומתנו איננה אומה כי אם בתורותיה, [האמונות ודעות מאמר ג'].

VIII

The Struggle Between Babylonia and Palestine for Hegemony

In the foregoing passages we presented the real cause of the clash between Saadia Gaon and Ben Meir. As we have made clear, the struggle arose for the supremacy of Jewish leadership.

Already before the time of Saadia the Geonim of Babylonia strove to establish their supremacy over Palestine. From the Talmud, we know that cases involving fines could be tried only in Palestine,[108] since *Semikah* was in vogue only in Palestine and not in Babylonia. However, from the geonic responsa we know that some of the Geonim held that even in Palestine cases involving fines were not tried. They were of the opinion that such cases could only be tried in Jerusalem at the time of the existence of the Sanhedrin of Twenty-three.[109] Thus, according to some Geonim since the cases involving fines were tried only before the destruction of the Temple, no such trials could be conducted in either country after the destruction of the Temple because the Sanhedrin of 23 was no longer in existence.[110] However, from the Talmud we learn that such cases were tried in Palestine after the destruction of the Temple.[111]

[108] Comp. B. K., 84b, חסדא חסדא קנסא קא מגבית בבבל, also ibid., בקנסא רב אשי אמר דיני קנסות הוה ובבבל לא, also San., 31b, לא עבדינן שליחותייהו דיינו דיני קנסות. See also note 111.

[109] . . . וששאלתם אלו נערות שיש להן קנס מהו להגבותן שלא יהא החוטא נשכר כלל זה אמרו חכמים אין מגבין קנסות אלא בירושלים ובסנהדרי קטנה של עשרים ושלשה. (תשובה מרב צמח, שערי צדק, ע' ל"א) מעשה באחד שהפיל את שנו של חבירו ונידהו מר רב צדוק גאון ז"ל . . . . ועכשיו כל דיני קנסות בטלו, ibid. Comp. more V. Aptowitzer, מחקרים בספרות הגאונים, pp. 97–122.

[110] According to some of the Geonim cases involving fines were tried in Palestine, (תשובה רב חנניה, שערי צדק, ע' ל') ובמקום שמגבין קנסות בארץ-ישראל.

[111] והשתא דאמרת פלגא נזקא קנסא . . . . ולא מגבינן בבבל . . . ואם תפס לא מפקינן מיניה ואי אמר קבעו לי זימנא דאזילנא לארעא דישראל קבעינן ליה ואם לא אזיל משמתינן ליה, B. K. 14b. Comp. also San. 14a.

From the Talmud *Sanhedrin* (5a) we learn that Babylonia was supreme in authority. Anyone who received authorization in Babylonia from the Exilarch had the right to try monetary cases in Palestine. However, if a person received authorization from the *Nasi* — Patriarch, he had the right to try monetary cases only in Palestine, not in Babylonia.

The supremacy of Babylonia over Palestine is illustrated in the Talmud in the following passage: "Rab said, anyone who wishes to try monetary cases and to be free from liability in case of erroneous decision should obtain authorization from the *Resh Gelutha* — Exiliarch, and so said Samuel. It is clear that an authorization obtained from the Exiliarch 'here' (in Babylonia) holds good 'here'; the authorization obtained from the authorities 'there' (in Palestine) is valid 'there'; the authorization received 'here' is valid 'there'." The Talmud asks whether authorization obtained 'there' (in Palestine) is valid 'here' (in Babylonia)? To this the Talmud replies by relating a story about Rabbah b. Ḥana when he gave erroneous judgment and then he came to R. Ḥiyya to inquire if he was to refund the money to the litigant. To this R. Ḥiyya answered: "If both parties accepted you as their Judge you are not compelled to make restoration. Otherwise you must indemnify him." From this the Talmud concludes that Rabbah b. Ḥana had authorization (from the authorities of Palestine); hence we infer that the authorization obtained in Palestine was not valid in Babylonia. This conclusion the Talmud seeks to challenge by the fact that when Rabbah the son of R. Huna quarreled with members of the Exilarch he said to them, "I do not have my authorization from you. I obtained it from my father who had it from Rab and he from R. Ḥiyya who received it from Rabbi (in Palestine)." The Talmud, however,

dismissed this challenge by saying that the quarrel between Rabbah and the members of the Exilarch were not on the question of law. The Talmud continues to challenge the conclusion that the authorization obtained in Palestine was void in Babylonia. If so, the Talmud says, why then did Rabbah the son of Ḥana obtain authorization in Palestine. The answer to this was given that the authorization obtained in Palestine was good for the cities situated on the border line.[112]

From this passage we clearly see that according to the Talmud, Babylonia was supreme over Palestine. Any authorization received in Babylonia was held to be valid in Palestine, while an authorization received in Palestine was void in Babylonia.

That Palestine was subjected to the Babylonia authorities may be inferred from another passage in the Talmud. According to *Horayot* (11b) when Rabbi asked R. Ḥiyya if he was supposed to bring a he-goat (according to the Bible, if a *Nasi* committed a sin he had to bring a he-goat for a sacrifice), R. Ḥiyya answered that his associate-rival was in Babylonia. Rabbi retorted, "We know that if the kings of Israel and the kings of the family of David committed any sin each of them was supposed to bring a separate sacrifice." To this R. Ḥiyya replied, "They are independent of each other. However, we must yield to the Babylonian authorities."[113] (We are subjected to the

[112] אמר רב האי מאן דבעי למידן דינא ואי טעה מיבעי למיפטרה לישקל רשותא מבי ריש גלותא . . . פשיטא מהכא להכא ומהתם להתם ומהכא להתם מהני דהכא שבט והתם מחוקק . . . . מהתם להכא מאי ת"ש דרבה בר חנא דן דינא וטעה אתא לקמיה דר' חייא א"ל אי קיבלוך עליהו לא תשלם ואי לא זיל שלים והא רבה בר חנא רשותא הוה נקיט ש"מ מהתם להכא לא מהני ש"מ. ולא מהני והא רבה בר רב הונא כי הוה מינצי בהדי ריש גלותא אמר לאו מינייכו נקיטנא רשותא, נקיטנא רשותא מאבא מרי ואבא מרי מרב ורב מר' חייא ור' חייא מרבי, במילתא דעלמא הוא דאוקים להו, וכי מאחר דלא מהני רבה בר חנא רשותא דנקט למה לי לעיירות העומדים על הגבולין.

[113] בעא מיניה רבי מר' חייא כגון אני מהו בשעיר אמר ליה הרי צרתך בבבל, איתיביה מלכי ישראל ומלכי בית דוד אלו מביאים לעצמם ואלו מביאים לעצמם אמר ליה התם לא כייפו אהדדי, הכא אנן כייפינן להו לדידהו. Rashi's interpretation ad loc.

Babylonian authorities) On the surface of this passage we may conclude that the Babylonian authorities were supreme over the Palestinian Rabbis.

In the *Midrash Wehishir*[114] we have the same account given as in the Talmud *Sanhedrin*, but instead of the statement that authorization of Babylonia was valid in Palestine in this Midrash we find complete contradiction to the Babylonian Talmud. According to *Midrash Wehishir* that anyone who received authorization in Palestine might render a decision in Babylonia. However if he obtained authorization in Babylonia it was void in Palestine.

According to this Midrash, Rabbah bar bar Ḥana was in Palestine. He had given erroneous judgment. He asked R. Ḥiyya if he had to refund the money to the litigant. To this R. Ḥiyya answered if both parties accepted him as their judge he was not compelled to make restoration. As to the statement of Rabbah bar bar Ḥana had obtained authorization, it was answered according to the Midrash that he obtained authorization from the Exilarch in Babylonia, and that the authorization of the Exilarch was not valid in Palestine. The Midrash continues to say that the sages questioned this statement that the authorization of Babylonia was not valid in Palestine, since we know that Rabbah bar bar Ḥana once had a quarrel with the Exilarch of Palestine. Rabbah bar bar Ḥana told the Exilarch that he did not depend on his authorization, that he had obtained it from his father and his father from Rab in Babylonia and Rab from his uncle R. Ḥiyya and the latter from Rabbi. The sages then questioned if the authorization obtained in Babylonia was void for Palestine then why

צרתך בבבל, ראש גולה שבבבל דהוי על גבך is unacceptable. The word צרתך has the connotation of rival. Compare also I Samuel 1.6, וכעסתה צרתה. Comp. Kimḥi ad loc., וכן כל שתי נשים לאיש אחד נקראות צרות . . . . וכן במשנה פוטרות צרותיהן.

[114] ספר והזהיר, לייפציג תרל"ג.

did Rabbah bar bar Ḥana obtain his authorization in Babylonia. The answer was given in the Talmud according to this Midrash that Rabbah bar bar Ḥana took his authorization for the cities which are on the border line of Babylonia. The *Midrash Wehishir* concludes that the law was decided that the authorization obtained in Babylonia was void in Palestine.[115] From this Midrash it is quite evident that Palestine was supreme over Babylonia. In the *Megillath Abiathar* published by Schechter in his *Saadyana* we find the same statement that authorization of the authorities of Palestine was valid in Babylonia. However, if anyone obtained authorization in Babylonia it was void in Palestine.[116] From Ben Meir's letter we may also surmise that he had a different reading in the Talmud *Sanhedrin*.[117]

Thus, the contradiction was quite evident between the two sources, Babylonian Talmud and the Midrash *Wehishir*. According to the text which we have in the Babylonian Talmud, Babylonia was superior to Palestine while the text

[115] ומי הוא שנטל רשות מראש גולה, או מן ראש ישיבה ודן וטעה אינו משלם מביתו . . . . והוא שנטל רשות מראש גולה שבארץ-ישראל ודן בבבל ובשאר ארצות, או שנטל רשות מראש גולה או מראש ישיבה שבבבל ודן בבבל ובשאר ארצות הוא שמועיל הרשות . . . אבל אם נטל רשות מראש ישיבה שבבבל ודן בא"י אינו מועיל . . . . לפי שבא"י נאמר שבט . . . . אבל בבבל נאמר בה מחוקק . . . . ועוד הלכה למעשה, רבה בר בר חנה היה בארץ-ישראל וטעה, בא לפני ר' חייא, אמר לו אם קיבלוך . . . . וחלקו חכמים בדבר, הרי רבה בר בר חנה היה לו רשות האיך אמר לו ר' חייא שלם, ונתברר להם הדבר שמראש גולה שבבבל נטל רשות . . . . שאין מועיל רשות בבל בא"י . . . . והשיבו חכמים תשובה ע"ז, ורשות בבל בא"י אינו מועיל והרי רבה בר בר חנה כשהיתה לו מריבה עם ראש גולה שבארץ-ישראל היה אומר לו אינו צריך לרשותך אלא אני נוטל רשות מאבא מרי ואבא מרי מרב שבבבל . . . . ואם תאמר רשות בבל בא"י אינו מועיל האיך היה נוטל רשותו רבה בר בר חנה מבבל, ופתרו חכמים את הדבר . . . . שכשנטל רשות רבה בב"ח מבבל לעירות שבין שני הגבולין, ונפסקה ההלכה שרשות בבל בארץ-ישראל אינו מועיל לפוטרו מן התשלומין וכן הלכה (ספר והזהיר, משפטים).

[116] P. 92, ... שאפילו ראש גולה שבבבל אין רשות ולא שם בארץ-ישראל מעולם וזו הל' למעשה בתלמוד סנהדרין בבלי והרי רבה בר בר חנה דן דינא בארץ-ישראל וטעה בא לפני ר' חייא . . . . ופירשו את הדבר רבה בר בר חנה לעיירות העומדות על הגבולים הוא שנטל רשות ולא לארץ-ישראל.

[117] שאמר ר' בכך יורה יורה ודין ודין . . . . ומכלל כל הדברים הללו יש הרשות לחבורת ארץ-ישראל על חכמי בני הגולה, ואין לבני הגולה רשות על בני ארץ-ישראל. See JQR (O. S.) 14, and Harkavy, זכרון לראשונים, ה'.

of the Talmud used by the author of the *Wehishir*, Palestine was superior to Babylonia.

There is no doubt that the text as we have it in *Wehishir* is not the original text of the Talmud. The clause "If anyone obtained authorization from the Exilarch of Palestine" shows without any doubt that the text of the Talmud given in the *Wehishir* was tampered with, since we know there was no Exilarch in Palestine. In Palestine there was a *Nasi* — Patriarch. The Exilarch was in Babylonia. However, neither can the present text of the Talmud Sanhedrin be accepted. Palestine was not subjected to Babylonia. On the contrary we know from many talmudic passages that the Babylonian authorities were subjected to the Palestinian rabbis.[118] The *Tosefists* had already called attention to the fact. Rabbenu Tam tried to solve this contradictory statement of the Talmud by saying that Palestinian authorities were superior in deciding ritual laws but that the Babylonian authorities were superior in deciding monetary laws.[119] Rabbenu Tam's differentiation cannot be accepted since from the Talmud we learn that in deciding monetary laws, Palestine was also superior. The Rabbis of Babylonia tried monetary cases only as agents. Their authority was derived because they were the agents of the Rabbis of Palestine.[120]

The present reading in *Horayot* הכא אנן כייפינן להו לדידהו may be questioned. In some manuscripts we have the reading הכא כייפי להדדי instead.[121] I believe that the reading of the manuscript is the correct one. Rabbi would never consent that he was inferior to the Exilarch. Furthermore we are told that Rab received only partial authorization

[118] מבבל לארץ-ישראל כיון דאנן כייפינן להו.

[119] ואומר רבינו תם דה"מ במילתא דאיסור והיתר דבני א"י חכימא טפי . . . . אבל לעניין הפקעת ממון ליפטר דהפקר ב"ד הפקר עדיפי בני בבל דאיקרא שבט, San. 5a

[120] Gitin 88b, אנן שליחותיהו קא עבדינן. Comp. also B. K. 84b.

[121] See דקדוקי סופרים, ad loc.

from Rabbi.[122] After the death of the latter, according to the Palestinian Talmud, Rab appealed to his son Gemaliel for a full authorization.[123] If we should assume that the authorization of Palestine was void in Babylonia then the question arises why had Rab to appeal again to the son of Rabbi for a full authorization. There is no doubt that the present text which we have in the Talmud *Sanhedrin* was tampered with and that the original reading was מהתם להכא מהני that the authorization obtained in Palestine was valid in Babylonia. This reading is supported by the text which Ben Meir had used.

The text in the Talmud *Sanhedrin* was changed before the time of Saadia Gaon when the Exilarch was the sole authority to appoint judges and authorize men to instruct and decide all matters concerning Jewish law. After the time of Saadia, particularly at the time of Hai Gaon, this authorization was no more given by the Exilarch but, the Gaon issued such authorization in the name of his court.[124]

Thus, we see sharp contention between the Rabbis of Palestine and the Rabbis of Babylonia. The Rabbis of Palestine maintained that there was no *Semikah* in Babylonia. That no scholar in Babylonia could obtain *Semikah*.[125] On the other hand the Rabbis of Babylonia were of the opinion that the Babylonian rabbis were superior to those of Palestine, and any one who obtained authorization from the Babylonian authorities to try monetary cases had the right to try such cases in Palestine.[126] Some of the

[122] San. 5a.

[123] Ned. 10, 8; Hag. 1, 8, מהו למנות זקנים לדברים יחידים . . . . רב מניתיה . . . . מן דדמך בעא גבי בריה . . . . אמר ליה איני מוסיף לך על מה שנתן לך אבא רבי . . . .

[124] See above p. 22, notes 72, 73.

[125] See above p. 83, n. 81, ובכתב בית ישראל לא יכתבו זה המינוי. Also Yer. Bik. 3, 3, ר' אמי שאל לר' סימון שמעת שממנין זקנים בח"ל א"ל ר' סימון שמעתי שאין ממנין זקנים בח"ל א"ר לוי ולא מקרא מלא הוא 'בית ישראל יושבים על אדמתם' הא כל ישיבה שלך לא יהא אלא על אדמתך.

[126] מהכא להתם מהני . . . . מהתם להכא לא מהני.

Geonim even maintained that the statement in the Talmud that cases involving fines cannot be tried in Babylonia but in Palestine was only at the time before the destruction of the Temple.[127] After the destruction of the Temple, however, there was no difference between Babylonia and Palestine in respect to trials involving fines. In both places such cases were not tried.

As a matter of historical fact, *Semikah* never ceased among the Jews.[128] The Franco-German Jewry continued the custom of *Semikah* as it was in vogue in Palestine since these Jews originally hailed from Palestine. The confusion which we find in the rabbinic literature concerning the custom of *Semikah*[129] is due to the fact that the Geonim in Babylonia strove to establish the hegemony of Jewish learning in Babylonia over Palestinian Jewry. Thus they maintain that the custom of *Semikah* was no more in practice even in Palestine.

[127] See above note 109.

[128] Comp. also San. 14a. ר' יוחנן הוה מצטער עליה . . . . חד דהוה גבייהו סמכוהו.

[129] See Judah b. Barzilai, al Barceloni, ספר השטרות, p. 132, ed. Halberstam, ואעפ"י שבדורות הראשונים או עדיין בארץ ישראל הזכה, נוהגת סמיכה שהיו שיהיו הסומכין והנסמך מתועדים, תרביץ א'; Asaff, in סומכין ב"ד למי שראוי לסמוך ביחד בארץ ישראל כי אין סמיכה בחוצה לארץ, ואף על פי כן אין לנסמך רשות לדון קנסות אלא בחבורת סמיכתו בארץ-ישראל. Comp. Maimonides, שאם תהיה הסכמה מכל החכמים שבא"י לסמוך אחד מהם יהיה סמוך ויסמוך אח"כ למי שירצה, (פ' המשניות סנהדרין, א') אז אפשר לב"ד הסמוך בארץ ישראל שיעבר השנים ויקבע חדשים בח"ל, (ספר המצות, קנ"ג). הרי שלא היה בארץ ישראל אלא סומך [סמוך] אחד מושיב שנים בצדו וסומך שבעים כאחד . . . . נראין לי הדברים שאם הסכימו כל החכמים שבארץ ישראל למנות דיינים ולסמוך אותם הרי אלו סמוכים . . . . אם כן למה היו החכמים מצטערין על הסמיכה כדי שלא יבטלו דיני קנסות מישראל, לפי שישראל מפוזרין ואי אפשר שיסכימו כולן ואם היה שם סמוך מפי סמוך אינו צריך דעת כולן אלא דן דיני קנסות לכל שהרי נסמך מפי בית דין, והדבר צריך הכרע, (משנה תורה, ה' סנהדרין, ד') וכיון דקנסא הוא לא מגבי' בבבל, פי' בדיינו בבל שאין שם סמיכה בזקנים . . . . אבל להזמינו לדין לא"י לא מזמינין ליה שאין עתה ישיבות קבועות שם כאשר היה אז, וראיתי בתשובות רב צמח גאון ז"ל אלו נערות שיש להן קנס, ששאלת מה להגבות . . . . ועכשיו כל דיני קנסות בטלו ומנהג שהנהיג אדונינו מר רב צמח גאון ז"ל אנו נוהגים בו היום בכל קהילות הקד' (תוספות רי"ד כתובות מ"א ע"ב). See also above note 109. Comp. שאם בדיני קנסות, אין כופין אותו, שו"ת רשב"א, תשכ"ד הלא א"כ הזמינו ללכת לא"י שדנים שם דיני קנסות.

The depleting of the Jewish communities in Palestine due to the persecutions prior to the conquest of the country by the Arabs, augmented the influence of the Babylonian Talmud. After the conquest of Babylonia by the Moslems many Jews of Babylonia settled in Palestine and so they helped to establish the supremacy of Babylonian authorities over Palestine.

IX

Saadia, Rashi and Maimonides

In the last decade the Jewish people commemorated the anniversaries of the three greatest Jews of the Middle Ages. The year, 1942, the one thousandth year of the death of Saadia has been observed. In 1940 the Jews commemorated the nine-hundredth year of Rashi's birth (ten years too late, since he was born, not in 1040, but in 1030). And in 1935, the eight-hundredth anniversary of Maimonides' birth was celebrated. These three had exerted the greatest influence upon the Jewish people. Saadia's influence upon the Jewish people, however, was not direct; it manifested itself through secondary channels. His books were not read by the masses, but by the highly learned people. His works on Philosophy, Liturgy, Grammar and Halakah were quoted by the Jewish scholars throughout the Middle Ages. The Jewish people at large did not read them. His book on Liturgy has only recently been published.[130] Many of his works are still in manuscript. His controversy with Ben Meir, which had a great influence in helping to destroy Palestinian leadership, only became known half a century ago.

Rashi, on the other hand, exerted the greatest and most direct influence upon the Jewish people. His works were

[130] סדור רב סעדיה נאון, יוצא לאור על ידי ישראל דודזן ז"ל, שמחה אסף, יששכר יואל, ירושלים, 1941.

read and studied, not only by the scholars, but the ordinary Jews as well. His commentary on the Pentateuch became not only a standard work, but an integral part of the Pentateuch. His commentary on the Talmud was studied by the scholars and made the Talmud accessible to all Jews. He shared the same opinion as Saadia, namely, that the Jewish people should be guided only by religious men. We have pointed out elsewhere that he was responsible for the institution of the Rabbinate.[131] In order to stress the importance of the Rabbi as the leader of the Jewish community Rashi never in his Responsa mentioned the name *Parnasim*, but substituted the word Bet-Din (scholars). Rashi was of the opinion that *Semikah* never ceased among the rabbis of France and Germany. Therefore, whenever the Talmud has the words, "There is no *Semikah* outside of the Land" (Palestine), Rashi always substituted the words "There is no *Semikah* in Babylonia"[132] instead of the words "There is no *Semikah* outside of Palestine." Thus he wished to emphasize that in France the rabbis had *Semikah.*

Maimonides differed from Saadia and Rashi on the guidance of the Jewish people. He believed that the Exilarchs in Babylonia are the real leaders of the Jewish people. According to him only they had the authority to rule the Jewish people everywhere, even without their own consent.[133] Any judge appointed by the Exilarch who was worthy of the position had the right to render his decision anywhere — in Palestine or in the Diaspora — even without the consent of the litigants.[134]

[131] *JQR*, 1940.

[132] Sanh., 14a; Rashi, ad loc.

[133] ראשי גליות שבבבל במקום מלך הן עומדים ויש להן לרדות את ישראל בכל מקום ולדון עליהם בין רצו בין לא רצו (משנה תורה ה' סנהדרין, ה'). וכל החולק על המשפחה הזאת כפר בשם הש"י ובדברי נביאיו, פירוש המשניות, סנהדרין י'.

[134] וכל דיין הראוי לדון שנתן לו ראש גלות רשות לדון יש לו רשות לדון בכל העולם אע"פ שלא רצו בעלי דינין בין בארץ ובין בחוצה לארץ, ה' סנהדרין.

The diverse views on the type of leadership of the Jews are even reflected in the various conceptions of the Messiah entertained by these three sages. Of course all of them believed in the coming of the Messiah and the restoration of the Jewish people in the Land of Israel. Maimonides even made this belief one of his thirteen dogmas of Judaism.[135] However, Saadia and Rashi believed the Messiah would possess supernatural power and perform miracles. Maimonides, on the other hand, had the boldness to say that the Messiah would be a man born and destined to die like any other mortal.[136] The Messiah would be of the family of David; he would be a wise man like Solomon and a prophet next only to Moses. He would conquer Palestine and unite the Jews there under one nation.[137] He would effect no impossible physical changes in the world. The Messiah would not perform any miracles. He would not resurrect the dead.[138] He would be a man like the first Messiah, King David.[139] Thus, to Maimonides *any Jew who would succeed in bringing the Jews to Palestine and establish the Jewish nation there under the Jewish law, would be the rightful Messiah.*

Maimonides' books, *the Guide to the Perplexed* and the *Mishneh Torah* had a great influence upon the Jewish spiritual life. In the field of Rabbinics the *Mishneh Torah* is without parallel in the entire rabbinic literature. His books, however, were not read by the ordinary people. We even may say that Maimonides did not succeed in

[135] והוא להאמין ולאמת שיבא (פ' המשניות, סנהדרין י').

[136] Ibid.: והמשיח ימות וימלוך בנו תחתיו ובן בנו.

[137] אמנם ימות המשיח הוא זמן שתשוב המלכות לישראל ויחזרו לארץ ישראל (ibid.).

[138] ואל יעלה על דעתך שהמלך המשיח צריך לעשות אותות ומופתים ומחדש דברים בעולם או מחיה מתים (משנה תורה מלכים) ואם יעמוד מלך מבית דוד הוגה בתורה ועוסק במצות כדוד אביו .... הרי זה בחזקת משיח אם עשה והצליח ובנה מקדש במקומו וקבץ נדחי ישראל הרי זה משיח בודאי (ibid).

[139] במשיח הראשון שהוא דוד שהושיע את ישראל מיד צריהם ובמשיח האחרון שעומד מבניו שיושיע את ישראל (ibid.).

accomplishing what he sought with his *Mishneh Torah* — to make of it a work of final resort. He had written it, as he said, in simple language, omitting all discussions, so that everyone should be able to understand it. The Rabbis, however, wrote commentaries upon it and made of it the most complicated and controversial work in the entire rabbinic literature. Maimonides also failed in helping students of philosophy in solving their perplexities by his *Guide to the Perplexed.* He raised more problems in the minds of those not fully matured than he solved. Maimonides' *Guide to the Perplexed* and the first part of the *Mishneh Torah* known by the name *Sefer ha-Mada* (the book of knowledge) brought about deplorable controversies among the Jewish people.[140]

Thus, these leaders entertained different conceptions of Judaism. Saadia, as well as Rashi, maintained that the leadership of the Jews should be vested in a man of spiritual authority. Maimonides on the other hand, was of the opinion that it should be vested in the Exilarch-secular leader. Their attitude on Jewish leadership is reflected in their halakic writings. The life of the Jewish communities was moulded according to the influence of these three sages.

Of these three sages, Rashi alone had the greatest and most direct influence in shaping the minds of the ordinary Jews. He became the guide to all the Jews. Owing to his influence and the schools which were established by his grandsons (Tosafists), the Jewish communities of France, Germany and Poland were shaped.

[140] S. Zeitlin, *Maimonides*, ch. XVI.

ADDITIONAL NOTES

To p. 65.

Rabbi Meir Simḥa (a great Talmudic authority who died recently), in his אור שמח rightly criticised Isaac bar Sheshet for supporting himself on a faulty reading of the Talmud. ונרסא מוטעת נזדמנה לו, דהגירסא שלפנינו רבה בר רב הונא כי הוי מינצי בהדי דבי ר"ג וכ' והיא הנכונה וכן לשון אבא מרי רגיל בפיו (גיטין ל"ה וכ"ט) וכן גרסי התוספות כגירסתנו וכן הסדר כדאמר סוף במה אשה (66b) כי הא דרב הונא מבי רב ורב מר' חייא ור"ח מבי רבי ועי"ש וכן האמת ובזה נסתרו דבריו שם (אור שמח ה' סנהדרין פ' ד').
Rabbi W. Leither called my attention to the pasaage of the אור שמח.

To p. 79.

Some students of the Bible believe that the verse in I Samuel 20.27 ויהי ממחרת החדש השני, indicates that the calendar used in the Bible was a lunar one. The translation of the Jewish Publication Society renders this verse "And it came to pass on the morrow of the new moon." However, this translation is not correct. The Septuagint renders this verse *καὶ ἐγενήθη τῇ ἐπαύριον τοῦ μηνὸς τῇ ἡμέρᾳ τῇ δευτέρᾳ* "and it came to pass on the morrow on the second day of the month." It is interesting to note that Kimḥi ad loc. explains this passage in accordance with the Septuagint רצה לומר ממחרת ר"ח שהוא שני לחדש.

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